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ABSTRACT

Each summer more than 18,000 migrant farmworkers and their families travel to Indiana from Texas, Florida, Missouri, and Arkansas to plant, cultivate, and harvest the State's crops. Of these, more than 80 percent are Mexican Americans from Texas. These migrants work in 43 counties, primarily in the State's central region. The migrant population hits its peak in early September during the tomato harvest, when more than 10,000 migrants are in the field. Yet, the migrant farmworker is subject to unequal protection under the laws of Indiana and of the United States. He is among the lowest paid, least educated, worst housed, and most medically impoverished groups in Indiana. Therefore, on August 16-17, 1974 the Indiana Advisory Committee to the U.S. Commission on Civil Rights held an informal hearing in response to complaints concerning migrant living and working conditions. The Committee's intent was to study and collect data regarding the alleged denial of equal protection of the law to migrant farmworkers in Indiana, and to appraise local, State, and Federal laws and policies with respect to equal protection of the laws. This report presents the Committee's findings, conclusions, and recommendations in the areas of migrant employment, education, health, housing, and welfare. Federal and Indiana laws affecting migrant farmworkers are discussed in the appendix. (NQ)

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INDIANA MIGRANTS: BLIGHTED HOPES, SLIGHTED RIGHTS

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INDIANA MIGRANTS:

BLIGHTED HOPES, SLIGHTED RIGHTS

--A report prepared by the Indiana Advisory
Committee to the United States Commission
on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Indiana Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

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March 1975

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Sirs and Madam:

The Indiana Advisory Committee submits this report of its study of migrant farmworkers in Indiana as part of its responsibility to advise the Commission about civil rights problems within this State.

The basic issue which this report addresses is that the migrant farmworker is subject to unequal protection under the laws of the United States and the laws of the State of Indiana. The migrant is among the lowest paid, least educated, worst housed, and most medically impoverished groups in the State. The migrant is denied even the last line of relief in this Nation: welfare.

The Advisory Committee has been involved with this problem since 1967, when it held open meetings regarding migrant housing conditions in the State. The Advisory Committee has since that time been made aware of the additional problem areas of employment, health, education, and welfare, and has heard from migrants, camp owners, growers, Federal agency representatives, State agency representatives, and local township representatives responsible for various migrant programs.

The specific issues examined by the Committee during its open meetings in August 1974 were the exclusion of migrants from protection of State and Federal laws, the failure of governmental agencies to protect the rights of migrants where laws do exist, and the exclusion of migrants from government-supported benefit programs.

The Advisory Committee is forwarding a series of recommendations to the appropriate local, State, and Federal officials. It is the Advisory Committee's hope that the Commission will support these recommendations and use its influence to help alleviate the poor working and living conditions among migrant farmworkers in Indiana.

Respectfully,

/s/

THOMAS W. BINFORD
Chairperson

ACKNOWLEDGMENTS

INDIANA MIGRANTS: BLIGHTED HOPES, SLIGHTED RIGHTS was written by Duane Lindstrom and was the principal staff assignment of Carmelo Melendez. Assistance in the research and preparation of the report was provided by Valeska Hinton, Margaret Johnson, Frank Steiner, Delores Miller and Ada Williams. The report was prepared under the supervision of Clark G. Roberts, regional director, Midwestern Office, U.S. Commission on Civil Rights.

Cover photo by Carmelo Melendez through the courtesy and permission of the Gilberto Berrones family.

Final edit and review was conducted in the Commission's Office of Field Operations in Washington, D.C., by Charles A. Ericksen, chief editor, with support from Bruce E. Newman and Mary Frances Newman. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

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INTRODUCTION

Manuel and Maria Guerra are migrant farmworkers in Indiana.¹

They are Mexican American. They live in Texas but come to the Midwest for 6 months out of every year in search of stoop labor in the fields. Both speak some English, have a grade school education, and last year had a total income of \$1,533.

During the peak of the tomato harvest in Indiana, the Guerras work from dawn until dark, 7 days a week. They receive no overtime pay, no health benefits, no workmen's compensation, and no unemployment insurance benefits.

Their three children also work in the fields to increase the family's income. The children are not covered by the State's compulsory education law or child labor law.

The Guerras live in a converted toolshed with partitions to separate family units. There is no indoor plumbing--no indoor toilets and no hot water.

Two of the Guerra's children have abscessed teeth and are in need of dental care. They receive none. Maria Guerra suffers from influenza and is in need of health care. She receives none.

During the first 3 weeks after arriving in Indiana, the Guerras cannot find work. A drought has set the crop season back almost a month. The Guerras are without money, but they cannot move on to other farms in other States because they are in debt to the Indiana farmer. In exchange for a \$50 loan to make the trip from Texas, the

1. The Guerras are a composite Indiana migrant family. All conditions and experiences in this account have been verified in hearing records, staff interviews, or signed affidavits.

family must be ready at a moment's notice to go to work for the farmer and begin repaying the debt.

When Manuel Guerra inquires at the State employment office about other job possibilities in the local area, he is told that all the crops are suffering from the drought and there is no migrant work. He is not referred to any available nonagricultural jobs.

Without food or money, the family is eligible for emergency food relief from the local township welfare fund. The township trustee refuses to give them aid and instead refers the family to the county food stamp office.

The county officer takes the Guerra's application for food stamps and after a week of processing declares them ineligible based on an estimate of the family's projected income for the next month.

The Guerras return to the farmer and receive an additional loan of \$20 to buy food. They wait for the weather to break.

MIGRANTS: A NATIONAL PROFILE

NO ONE BECOMES A MIGRANT FARMWORKER
IF HE HAS ANY POSSIBLE ALTERNATIVE....

Vernon M. Briggs, Jr.
Author, Chicanos in Rural Poverty

Throughout the Nation, 184,000 Americans work as migrant farm laborers in conditions similar to those of the Guerra family. Each earns approximately \$2,434 a year, working for 124 days in farm labor and 34 days in off-season odd jobs. (See Exhibit I.)

EXHIBIT I

Migratory farm workers: Number and sex of workers, average days worked and wages earned, United States, selected years, 1959-72¹

Year	All migratory farm workers			Migratory workers with 25 days or more of farm wage work				
	Total	Male	Female	Number of workers	Average days worked		Average wages earned during year	
					At farm and nonfarm wage work	At farm wage work	At farm and nonfarm wage work	At farm wage work
	Thousands	Thousands	Thousands	Thousands	Days	Days	Dollars	Dollars
1959.....	477	359	118	346	143	119	911	710
1960.....	409	315	94	317	157	123	1,016	819
1961.....	395	308	87	296	136	109	902	677
1962.....	380	286	94	288	141	116	1,123	874
1963.....	386	318	69	278	127	110	868	657
1964.....	386	280	107	272	155	120	1,581	1,083
1965.....	466	334	132	300	149	122	1,474	1,192
1966.....	351	249	104	275	160	121	1,779	1,307
1967.....	276	204	71	194	148	117	1,555	1,266
1968.....	279	205	74	176	148	120	1,711	1,385
1969.....	257	201	55	172	152	113	1,937	1,293
1970.....	196	161	35	135	148	123	2,007	1,697
1971.....	172	142	30	117	142	111	1,830	1,407
1972.....	184	133	51	138	158	124	2,434	1,814

¹ Data relate to persons 14 years of age and over in the civilian noninstitutional population at or near the end of the year. Migratory workers are those who leave their homes temporarily to do farm wage work in another county or counties. Does not include foreign nationals brought into the United States to do farm work who have left the country before the time of the survey.

² Beginning 1960, includes Alaska and Hawaii.

Rural Development Service. Based on data from enumerative sample surveys made by the U.S. Department of Commerce for the Economic Research Service. Data for 1949-58 in *Agricultural Statistics*, 1972, table 647.

In 1971 a study funded by the U.S. Office of Economic Opportunity (OEO) found that the average migrant family included six members and had a total income of \$2,021. At the time of the study, the poverty level income established by OEO for a family of six was \$4,800.²

Like the Guerras, most migrants earn so little in wages that it is normal to find all able members of a family working in the field. A 1972 report issued by the Senate Subcommittee on Migratory Labor concluded that one out of every four migrant field workers was 17 years old or under,³ while the American Friends Service Committee maintained in a 1970 study that, "Whatever people say, children from the age of six work in the fields harvesting the food we all eat."⁴

The economic necessity of working the fields makes it nearly impossible for migrants to pursue either education or job training. The U.S. Department of Health, Education, and Welfare (DHEW) found in 1970 that the average migrant farmworker had completed 5 years of school, while the average American had completed more than 12 years of school. In addition, DHEW found that more than 90 percent of all migrant children never finish high school.⁵ Without education or training, the migrant finds himself or herself unqualified for any position outside of the migrant stream.

Lack of education and lack of an adequate income leaves migrants vulnerable to sickness and disease. "The migrant has a life expectancy 20 years less than the average American," said Dr. Raymond Wheeler in testimony before the U.S. Senate Subcommittee on Migratory Labor in 1969. "The migrant's infant and maternal mortality rate is 125 percent higher than the national average. The death rate from influenza and pneumonia is 200 percent higher than the national rate, and from

2. U.S., Comptroller General, Impact of Federal Programs to Improve the Living Conditions of Migrant and Other Seasonal Farmworkers, 1973, p. 16 (hereafter cited as Impact of Federal Programs).

3. U.S., Congress, Senate, Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare, Federal and State Statutes Relating to Farmworkers, 92 Cong., 2d sess., 1972, p. 193 (hereafter cited as Federal and State Statutes).

4. American Friends Service Committee, Child Labor in Agriculture--Summer 1970 (Philadelphia, January 1971), pp. 2-3.

5. Impact of Federal Programs, p. 21.

tuberculosis, 250 percent higher than the national rate. The accident rate among migrant farmworkers is 300 percent higher than the national rate," he concluded.⁶

Migrant health is also jeopardized by the housing conditions found in labor camps. Studies of migrant camps done in the States of Washington and Michigan and reported to the Senate Subcommittee on Migratory Labor found that housing provided for migrants was generally "inadequate, structurally unsound, overcrowded, hazardous, deficient, and in violation of existing legislation covering such units." The Washington State Council of Churches concluded after a survey that the housing conditions in migrant camps contributed to the poor health of the inhabitants.⁷

Although migrants are apparently qualified to receive a number of welfare benefits, these benefits rarely reach them. The Office of Economic Opportunity indicated that because of "mobility, residency requirements, and problems of obtaining required income certification, migrants have only limited opportunities to participate in...Medicaid, food stamps, welfare, surplus food commodities, Federal job training, and child care."⁸

The U.S. Department of Labor in 1972 found that although poor farmworkers represent 2 percent of the Nation's population, they receive less than 0.009 percent of the Federal expenditures for domestic social programs and services.⁹ Between 1966 and 1970, the Federal Government provided about \$400 million for programs to help alleviate the hardships confronting the estimated 1 million migrant and seasonal farmworkers of the Nation. In 1971 Federal obligations for programs for poor farmworkers totaled \$123.3 million. Of this amount, approximately \$58 million was spent on education, \$14 million on health services, \$2 million in the area of child development, \$13 million for employment services, \$1 million for housing and \$36 million for OEO migrant programs.¹⁰

6. Juarez-Lincoln Center, Migrant Health Legislation and Programs (Austin, Tex., undated), p. 6.

7. Impact of Federal Programs, p. 22.

8. Ibid., p. 23.

9. U.S., Department of Labor, Manpower Administration, Office of National Programs, Division Migrant Programs, Report on the Department of Labor Farmworker Task Force (September 1973), p. 55.

10. Impact of Federal Programs, pp. 7-11.

What services migrants do receive are often of poor quality or below par, according to Robert McElroy, program leader of the U.S. Department of Agriculture's manpower group.

"Unfortunately," said Mr. McElroy, "too many of the past efforts on behalf of migrants by both the legislative and executive branches of governments at all levels have been ineffective programs largely uncoordinated and of questionable value to migrants."¹¹

Migrants are not, however, simply statistics, numbers, or recipients of governmental programs. The migrant life style and culture is unique and is a necessary consideration in any analysis of the migrant situation.

"In a very real sense the migrant farmers form a 'subculture' in this Nation," Dr. Robert Coles, a psychiatrist at Harvard University, reported to the Senate Subcommittee on Migratory Labor. "They live apart from the rest of us in a number of ways. By definition, they are on the move, regularly or irregularly living each year in several States, and in the process usually managing to lose the many advantages of a permanent residence in any one of them."

Dr. Coles went on to tell the Senate subcommittee, "The extreme poverty, the cultural deprivation, and social fragmentation, in sum, the uprootedness which characterizes their lives, falls not suddenly upon them (as it does upon the observer who tries to comprehend their manner of survival) but is a constant fact of life from birth to death, summoning, therefore, a whole style of life, a full range of adaptive maneuvers."

Because the migrants realize they are not a permanent part of any community, they "turn their isolated, mobile life inward, becoming guarded and suspicious toward outsiders but, in compensation for a rootless life, [they become] exceptionally close-knit with their young children...."

"Not only are they poor, and weak, and isolated, and ignored, and afflicted with all sorts of severe medical and psychiatric problems," Dr. Coles concludes, "but in addition, they are wanderers who are cut off even from what Oscar Lewis calls 'the culture of poverty.'"¹²

11. Robert C. McElroy, "Migratory Farmworker Problems and Needs" (Remarks before the National Manpower Advisory Committee, Washington, D.C., June 18, 1971), p. 4.

12. Federal and State Statutes, pp. 205-210.

The economic, educational, medical, and psychological disadvantage experienced by migrant farmworkers is due, in part, to the passage of Federal legislation giving economic advantages to certain groups of workers but denying the same advantages to other workers. (See Appendix.)

In 1935 the U.S. Congress passed the National Labor Relations Act, giving Federal protection to the rights of workers to organize and collectively bargain with management for better pay, better working conditions, and better job benefits.¹³ Congress decreed in the same law that agricultural workers are not entitled to such governmental protection.¹⁴

In 1938 Congress passed the Fair Labor Standards Act guaranteeing American workers a minimum wage for their labors. Farmworkers were excluded from equal protection of the law for decades, and it was not until 1973 that laws were enacted which will eventually make the minimum wage in agriculture equitable with the minimum wage of other workers.¹⁵

In 1938 child labor laws were enacted which prohibited oppressive child labor and protected adult workers from unfair competition in the job market through the use of child labor. Loopholes were written into the law making exemptions for farmwork.¹⁶

The passage of the Fair Labor Standards Act in 1938 protected employees from being forced to work overtime without being paid a just and fair wage. The government specified that "time and a half" must be paid for any work over 40 hours a week. Agricultural employees were excluded from the law.¹⁷

In the 1950's Congress aided the Nation's workers by passing the Federal Employment Tax Act, which requires that employers contribute to unemployment insurance benefits for individuals who are out of work. Congress again excluded agricultural workers from the program.¹⁸

13. 29 U.S.C. §151 et seq.

14. 29 U.S.C. §152.

15. 29 U.S.C. §206(a)(5); 29 U.S.C. §213(a)(6).

16. 29 U.S.C. §213(c)(1) and 214.

17. 29 U.S.C. §213(a)(6).

18. 26 U.S.C. §3306(c)(1) and (k).

Federal laws and actions regarding immigration of workers from Mexico have also affected the American migrant worker through what Richard J. Bela, attorney and senior associate of Interstate Research Associates, calls the labor displacement factor. "In World War II, the Government entered into an agreement with Mexico for the importation of 'farm laborers,' and this 'bracero program' was reinstituted during the 1950 Korean War and continued under Public Law 78 until 1964," Bela told the House Subcommittee on Agricultural Labor. "Cheap labor coming across the border into California and Texas...displaced local domestic labor which in turn displaced other domestic labor in the northern States." As the result of the immigration policy, according to Bela, wages were depressed and workers were forced to enter and remain in the migrant stream.

The federally sponsored bracero program officially ended in 1964 but the United States Government continues to allow Mexican workers to commute across the border and compete for jobs with American workers. Generally the commuter "is a Mexican National who has legal entry for permanent residence in this country but who chooses to work here and reside in Mexico," said Bela. "He is also known as a 'greencarder' because of the color of his official identification border pass."¹⁹

Additional competition for jobs comes from the Federal Government's inability to control the volume of illegal aliens who smuggle themselves across the Mexican border to seek employment. Since the termination of the bracero program in 1964, the number of illegals has steadily increased, according to the U.S. Immigration and Naturalization Service.²⁰

Congressional action establishing the Land Grant College Complex also affected agriculture to a great degree and, in turn, the migrant. The Morrill Acts of 1862 and 1890, the Hatch Act of 1887, and the Smith-Lever Act of 1914,²¹ combined to provide various colleges and universities with money, land, and research designed to benefit rural Americans and consumers.

19. U.S., House of Representatives, Committee on Education and Labor, Subcommittee on Agricultural Labor, Seminar on Farm Labor Problems, 92d Cong., 1st sess., June 1971, pp. 71, 94, 95 (hereafter referred to as Seminar on Farm Labor Problems).

20. Federal and State Statutes, p. 256.

21. Laws creating land grant complex now codified at 7 U.S.C. §§301-390.

This research fostered mechanization of the agricultural industry and resulted in a decline in the number of available farm jobs. Migrant farmworkers were particularly hard hit by the mechanization. Between 1959 and 1972 the number of agricultural jobs held by migrants dropped from 477,000 to 184,000, a decline of more than 60 percent. During the same time period, however, agricultural productivity rose 25 percent, while the net income from farming rose by more than 75 percent.²² (See Exhibit I.)

For those agricultural workers who lost their jobs to technology and machines, the land grant complex did very little. In 1969 alone, it was estimated that of the quarter of a billion tax dollars spent by the land grant complex, 95 percent went to technological, mechanical, and chemical advancements in the agricultural industry, and only 5 percent was spent on projects aimed at assisting the needs of farmworkers displaced or affected by farm mechanization.²³

Through these congressional actions, the Federal Government has: 1) excluded the farmworker from the rights and benefits granted to every other American worker, 2) supported immigration legislation creating an oversupply of agricultural workers, resulting in depressed wages and job opportunities, and 3) financially supported the development of mechanization for farmowners but neglected the needs of those workers losing their jobs to the machines.

"Regardless of his race or ethnic group, the legal status of anyone employed in the agricultural sector of the American economy is that of a second-class citizen," said Vernon M. Briggs, Jr., writing in Chicanos in Rural Poverty. "Although large farmowners are the most privileged group in American corporate society (with import quota protection, antitrust law, exemptions, price supports, soil bank purchases, subsidized research, irrigation, land reclamation and erosion projects, and special property tax rates), farmworkers survive only by the law of the jungle."²⁴

22. U.S., Department of Agriculture, Agricultural Statistics 1973, pp. 421, 444.

23. Jim Hightower, Hard Tomatoes, Hard Times: Preliminary Report of the Task Force on the Land Grant College Complex (Agribusiness Accountability Project, Washington, D.C., 1972), p. 6.

24. Chicanos in Rural Poverty (John Hopkins University Press, 1973), p. 49.

MIGRANTS: AN INDIANA PROFILE

THE REASON FOR FOLLOWING THE CROPS WAS
REAL SIMPLE: WE HAD TO EARN A LIVING;
WE HAD TO STRUGGLE TO SURVIVE ANOTHER
YEAR.

Guadalupe Rocha, Jr.
Indiana migrant, now
settled out.²⁵

Each summer approximately 18,000 migrant farmworkers and their families make their way to Indiana, where they plant, cultivate, and harvest \$26,000,000 worth of the State's crops of asparagus, cucumbers, mint, peas, potatoes, strawberries, tomatoes, orchard fruit, seed corn, and melons. They work in 43 Indiana counties, primarily in the central region of the State. (See Exhibit II on following page.) More than 80 percent of the workers are Mexican Americans from Texas, traveling from their homes in the lower Rio Grande Valley to seek stoop labor in the fields of Indiana. (See Exhibit III on page 12.)

These workers are joined by migrants from Florida, Missouri, and Arkansas as early as mid-May for work in preparing the fields for planting and for early cultivation of crops. The migrant population continues to grow over the summer months, hitting its peak in early September during the tomato harvest, when more than 10,000 migrants are in the fields. (See Exhibit IV on page 13.)

During this peak harvesting period, migrants often work from dawn until dark, 14 to 16 hours a day, 7 days a week. For this labor, they earn less than \$1,600 a year. A survey of farmworkers entering

25. The term "settled out" refers to former migrant farmworkers who no longer work in the migrant stream.

EXHIBIT II

INDIANA MIGRANT (INTERSTATE) FARMWORKER
POPULATION AND DISTRIBUTION - 1973

Total Population -
18,409

Source: Associated Migrant Opportunity Services, migrant health project application to U.S. Department of Health, Education, and Welfare, 1974.

EXHIBIT III

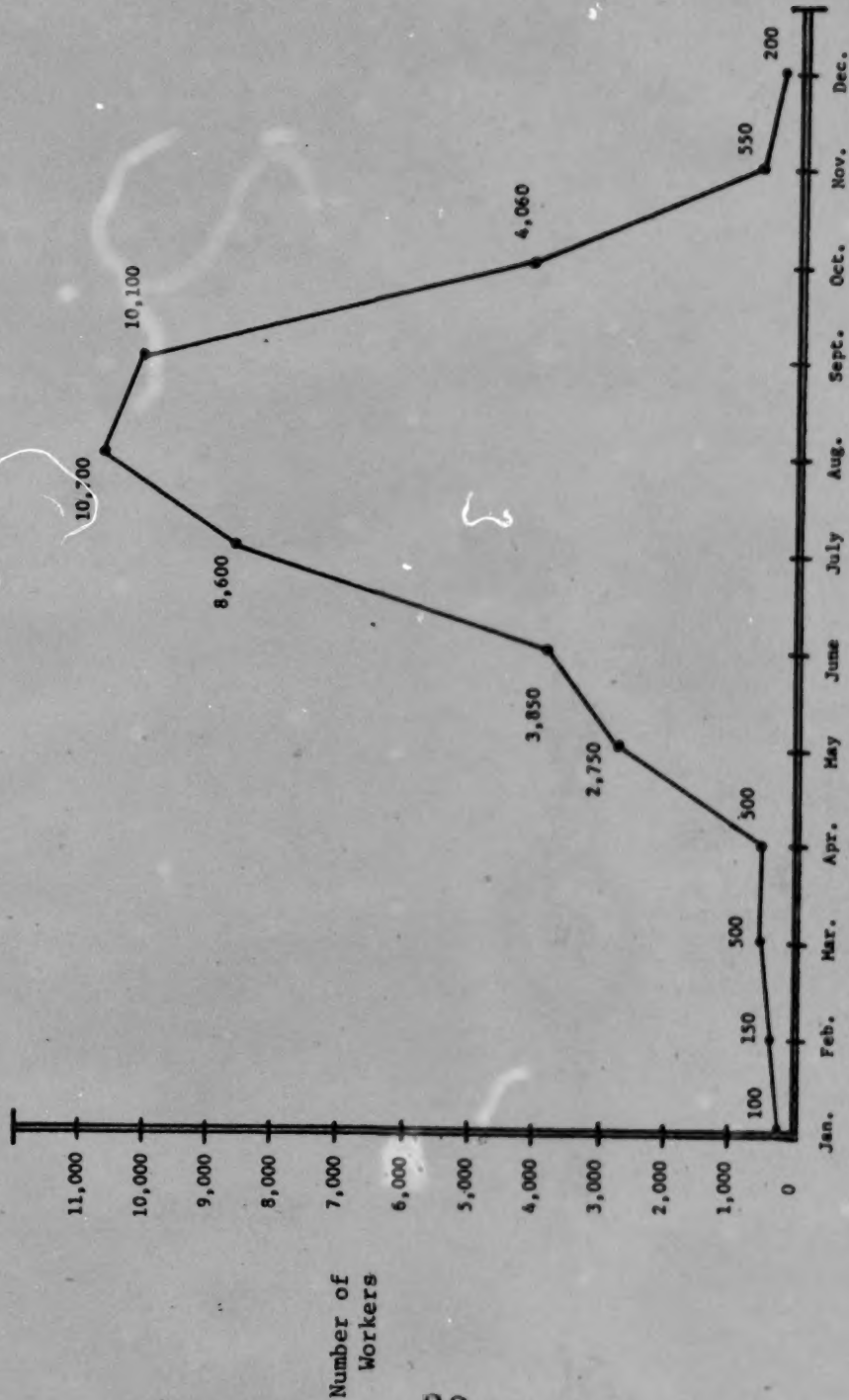
OUT-OF-STATE WORKERS EMPLOYED IN SEASONAL AGRICULTURAL AND FOOD PROCESSING ACTIVITIES
IN THE STATE OF INDIANA
BY STATE OF ORIGIN

May 1972 through October 1972

Origin	May 15	May 31	June 15	June 30	July 15	July 31	Aug. 15	Aug. 31	Sept. 15	Sept. 30	Oct. 15	Oct. 31
Texas	440	1,076	1,252	1,350	1,470	2,272	3,733	5,681	6,396	5,739	2,164	0
Arkansas	0	54	0	0	0	0	0	52	117	119	0	0
Florida	12	46	14	14	14	20	135	238	353	312	45	0
Kentucky	0	0	0	0	0	0	0	24	71	67	0	0
Tennessee	0	5	0	0	0	0	0	0	0	0	0	0
Missouri	0	0	0	0	0	0	0	0	16	22	0	0
Other States	0	15	30	15	15	15	43	148	161	80	31	0
TOTALS	452	1,196	1,296	1,379	1,499	2,307	3,911	6,143	7,114	6,339	2,240	0

Source: Indiana Rural Manpower Report 1972

EXHIBIT IV
INDIANA MIGRANT FARMWORKER POPULATION TREND BY MONTH - 1973



Source: Associated Migrant Opportunity Services, migrant health project grant application to Department of Health Education and Welfare, 1974.

the U.S. Department of Labor's National Migrant Workers Program during March 1974 showed that the average income of Indiana migrants for the year 1973 was \$1,533. This figure included income for work outside of Indiana and for work obtained during the off-season. Of nearly 300 migrants entering the program between 1971 and 1974, the average annual income was \$1,376, according to statistics provided the Advisory Committee by David Martinez, director of the Indiana settling out program of the Midwest Council of La Raza. (vol. 4, p. 55)²⁶

The migrant population flowing into Indiana has decreased steadily over the past years. In 1965 permits were issued by the State Department of Health for the operation of 802 migrant camps with a total capacity of 21,865 inhabitants.²⁷ Last year, 190 camps (see Exhibit V) with a total capacity of 10,819 inhabitants were in operation, a drop of more than 50 percent.²⁸

Migration to Indiana and other Midwestern States began during the summer following entry of the United States into World War I. Enlistment and recruitment into the armed services had depleted the domestic labor force, and the U.S. Department of Agriculture imported 21,000 alien Mexican workers to the Midwest to aid in the harvest of the crops.

The Midwestern States continued to recruit Mexican and Mexican American workers after the war because the labor was cheap and returning veterans were taking more lucrative jobs in industry rather than returning to agricultural jobs. Agriculture, nevertheless, continued to be dependent upon the availability of workers willing to stoop, walk, kneel, crouch, and crawl through fields harvesting the Nation's food supply.

26. Volume and page number in parentheses cited here and hereafter in text refer to statements made to the Indiana Advisory Committee at its open meeting in South Bend, Aug. 16-17, 1974, as recorded in the transcript of that meeting. Transcript on file with the U.S. Commission on Civil Rights, Washington, D.C., and with the Commission's Midwestern Regional Office, Chicago, Ill.

27. State of Indiana, Department of Public Health, Migrant Labor Camps (1965).

28. Review of Indiana Board of Health migrant camp permits by staff of U.S. Commission on Civil Rights, July 1974.

EXHIBIT V

DISTRIBUTION OF INDIANA MIGRANT LABOR CAMPS BY COUNTY - 1974



Source: Indiana Board of Health, Migrant Labor Camp Roster 1974-1975.

During World War II the Federal Emergency Farm Labor Program provided workers to the Midwest either through direct importation from Mexico or by creating an oversupply of labor in Texas and driving that State's farmworkers into the Midwest migrant stream. The program continued to serve the same purpose until its termination in 1964. (vol. 1, p. 23)

Indiana is considered a "footpath" State in the Midwest migrant stream. While there are many more jobs available in Ohio and Michigan, the migrant often passes through Indiana on his way to those States, stopping and securing work if it is available. (See Exhibit VI.) The migrant will often move around within the State of Indiana or over into a bordering State in search of work as the crop seasons progress.

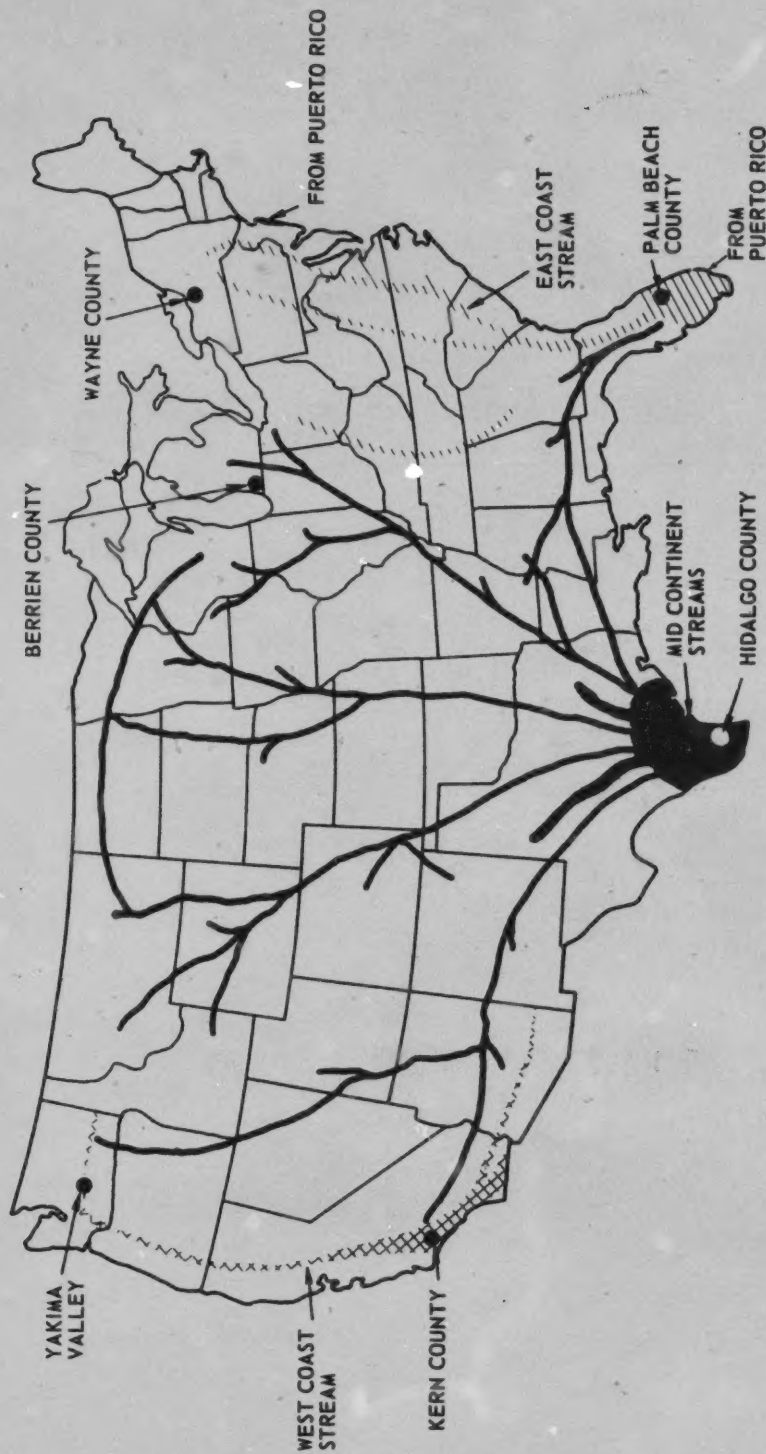
Quite often the migrant signs "advance loan" or "bonus pay" agreements which require the worker to remain at one farm throughout the entire season or be at a grower's disposal at any time. Such agreements limit the migrant's ability to obtain as much work as possible or obtain the highest paying jobs available.²⁹

In his 4-year study of the Midwestern migrant stream, Gilbert Cardenas, of the University of Notre Dame's Center for Civil Rights, found that "since 1916, the agricultural labor market has been subject to the near total control and domination by farmers, growers, and more recently, agribusiness. By creating an abundant supply of workers from Mexico and by preventing or otherwise thwarting government or union efforts to protect hired agricultural workers, employers undermined any opportunity for workers to gain anything more than subsistence wages. Despite the steadily rising productivity of labor, improvements in agriculture, and subsidized research, the working and living conditions of seasonal agricultural workers have not appreciably changed." (vol. 1, p. 24)

The Indiana Advisory Committee to the U.S. Commission on Civil Rights, in response to complaints concerning migrant living and working conditions, held an informal hearing on August 16-17, 1974, in South Bend. It was the Committee's intent to: 1) study and collect information regarding the alleged denial of equal protection of the law to migrant farmworkers in Indiana, and 2) to appraise local, State, and Federal laws and policies with respect to equal protection of the laws. The Committee's findings, conclusions, and recommendations follow.

29. Olga Villa, chairperson, Associated Migrant Opportunity Services (AMOS), Board of Directors, staff interview in South Bend, Ind., July 1, 1974.

TRAVEL PATTERNS OF SEASONAL MIGRATORY AGRICULTURAL WORKERS



SOURCE: Senate Committee On Labor And Public Welfare,
Subcommittee On Migratory Labor, Senate Report 91-83

EMPLOYMENT

MUST BE ABLE TO STOOP OVER FOR LONG PERIODS OF TIME. MUST BE ABLE TO STAND FOR LONG PERIODS AND TOLERATE HEAT. REQUIRED TO WORK 10 HOURS PER DAY, 6 DAYS PER WEEK. UP TO 7 DAYS PER WEEK, WORKING 12-HOUR SHIFTS. \$1.65 PER HOUR. \$1.40 FOR ALL HOURLY WORK. \$1.30 AN HOUR.

Migrant job orders processed
by the Indiana Rural Manpower
Service, 1973.

Migrants working in Indiana are faced with low pay, long hours, little job security, and exclusion from the State's labor laws.

The Indiana Legislature, like the Federal Legislature, has passed laws granting economic advantages in employment to some workers while denying those same advantages to agricultural workers. Migrant farmworkers are excluded from coverage under the State's Workmen's Compensation Act (Ind. Ann. Stat. 40-1201 et seq.), Minimum Wage Law (Ind. Ann. Stat. 40-132 et seq.), portions of the Child Labor Law (Ind. Ann. Stat. Sec. 28-5340, and S.B. 103, L. 1971), Workman's Occupational Disease Act (Ind. Ann. Stat. 40-2206), Maximum Hours Law (Ind. Ann. Stat. 40-401), and the Unemployment Compensation Law (Ind. Ann. Stat. 52-1532). (See Appendix for more complete descriptions of these laws.)

A 1972 Department of Labor study of the employment situation among migrants reported that "the farmworker is at a distinct disadvantage relative to other workers because of his exclusion from or reduced coverage under social legislation, the inadequate enforcement

of those laws which do protect him, and his lack of organization in dealing with farm employers."³⁰

In an attempt to compensate for these employment disadvantages, the Federal Government conceived the Farm Labor Service, now known as the Rural Manpower Service (RMS), which is responsible for providing job training, job development, counseling, and placement for farm laborers in each State of the Union.

The Indiana RMS, however, does not provide migrants with training, job development, or counseling services, and is "thinking of going out of business," its supervisor told the Commission staff. While RMS does supply job placement services to migrants, the placements are nearly always in migrant agricultural positions, and the State was unable to document a single case where a migrant farmworker was referred to any available job outside of farm labor.³¹

When the Department of Labor reviewed the operations of the Indiana RMS in 1972, it reported that Indiana failed to provide adequate services to migrants in the State. The Department of Labor also concluded that the Indiana RMS was guilty of age discrimination, sex discrimination, and racial discrimination.

Federal District Court Judge Charles R. Richey concurred with the Department of Labor's findings, declaring in a 1973 court order that the Rural Manpower Service "subjected minority farmworkers to racial, national origin, sex, and age discrimination and has denied minority farmworkers the employment services to which they are entitled."³²

The Department of Labor further concluded that the Indiana RMS was not taking the legally required steps to insure that Social Security payments were being made on behalf of migrants and that proper records of payroll deductions were being maintained. The department also concluded that the Indiana RMS was not taking the required steps to insure compliance with minimum wage laws by employers.³³

30. U.S., Department of Labor, Manpower Administration, Review of The Rural Manpower Service (1972), p. 10 (hereafter cited as Review).

31. John Dungan, supervisor, Indiana Rural Manpower Service, staff interview in Indianapolis, July 11, 1974, and Aug. 13, 1974 (hereafter cited as Dungan Interview).

32. NAACP, Western Region v. Peter J. Brennan, 360 F. Supp. 1006 (D.D.C. 1973).

33. Review, pp. 9-14, 18, 28, 30, 31.

As a result of the department's findings, the Secretary of Labor issued 13 directives to the Indiana RMS, including an order to offer "a broader spectrum of services to rural workers and employers" and "to insure that as many resources as possible are directed to provide services in rural areas."³⁴

Instead of stepping up its efforts, however, Indiana has diminished its services to migrants. In 1971, prior to the Secretary's order, the State processed 80 job orders for migrants. In 1973, after the order to increase services, the number of job orders fell to 23, and in 1974 only seven orders were processed.³⁵

John Dungan, supervisor of the Indiana RMS, conceded that the office provides "no special services" to migrants other than "writing clearance orders and making housing inspections." "We have pulled back our operations," said Mr. Dungan. "If it doesn't fit now, we don't do it."³⁶

The Secretary of Labor also ordered that "immediate actions shall be taken to correct any civil rights violation found during the review."³⁷ Indiana has taken no action, however, to correct the racial imbalance of its staff. According to Mr. Dungan, to this date, the Indiana RMS continues to employ 11 staff people, all Anglos.³⁸

The Indiana RMS is also required to insure that all of its job orders designate who is responsible for Social Security payments and records.³⁹ A survey of the 1973 job orders indicates that Indiana continues to be in violation of this requirement. Of the 23 job orders processed, six did not specify the party responsible for Social Security payments.⁴⁰

While the Secretary of Labor ordered that "steps shall be taken to insure that all child labor laws are being followed" and that job orders should not be processed for those employers violating child

34. U.S., Department of Labor, Statement of Actions To Be Taken In Response To Review of The Rural Manpower Service (1972), p. 1 (hereafter cited as Statement of Actions).

35. Number of job orders processed as of July 11, 1974. Dungan Interview.

36. Ibid.

37. Statement of Actions, p. 1.

38. Dungan Interview.

39. Review, p. 42.

40. Analysis of job orders by staff of U.S. Commission on Civil Rights.

labor laws, the RMS has taken no such steps and has no program to monitor employers.⁴¹ The RMS also has no programs to insure that individual migrants are receiving the minimum wage as required by law.⁴²

Instead, RMS depends upon the Employment Standards Division of the Department of Labor to monitor compliance with these laws. The Employment Standards Division's area director told the Indiana Advisory Committee that it has responsibility for two laws directly affecting migrants: the Fair Labor Standards Act, including minimum wage and child labor laws, and the Farm Labor Contractor Registration Act, which requires that crew leaders register with the Federal Government, that they keep accurate records of workers' earnings and deductions and that they inform the worker through written "stubs" of his or her earnings and deductions.

During 1973 the Employment Standards Division made 80 random field investigations of migrant employment conditions in Indiana and documented 43 violations for "failure to register," 56 violations for failure to keep records of workers' wages and deductions, 54 violations for failure to post required information in the camps, and 31 violations for failure to provide workers with required wage earning records (stubs).

In another 49 investigations made by the division that year, 19 farmowners were found in violation of child labor laws. (vol. 4, pp. 101-104, 111, 112)

In 7 out of every 10 cases investigated, the Employment Standards Division found that either the farmer or the crew leader was in violation of a law protecting the migrant. Donald Laurent, area office director of the division, testified at the Indiana Advisory Committee open meeting that not one fine was imposed for the more than 200 violations uncovered, not one court action was initiated and not one farmer was curtailed from the continued use of migrants in the fields. (vol. 4, p. 12)

The safety and health aspects of migrant working conditions fall under the jurisdiction of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). This administration has broad powers to make inspections, levy fines, and eliminate unsafe and hazardous conditions in both migrant camps and the fields where

41. Statement of Actions, p. 1.

42. Dungan Interview.

migrants work. Under its current guidelines, OSHA has placed random inspections of migrant camps and fields in its lowest priority (number five), and no such random inspection has ever been made in Indiana.⁴³

Until recently, OSHA would respond and investigate complaints filed by representatives of migrants alleging hazardous camp conditions. Seven such complaints were processed during 1972 and 1973, according to OSHA, resulting in a number of citations against camp owners. OSHA has now changed its policy regarding such complaints, however, and will no longer accept a complaint unless it is signed by a migrant directly affected by the hazardous condition. This year no "valid complaints" have been processed.

OSHA also requires that employers keep a "log of injuries and illnesses," detailing accidents, sickness, or contact with dangerous materials. The logs are not required to be turned in, however, and the log is looked into only if there is an inspection made resulting from a complaint or a fatality.

While OSHA has the jurisdiction to protect workers from dangerous pesticides and chemicals which might be used in the fields, the agency does not make random inspections to ascertain the extent of such hazards. Indiana's OSHA director, Fred Keppler, indicated that he had "no idea" what pesticides were currently in use in the fields.

In summing up the effectiveness of OSHA in protecting migrants from occupational health and safety hazards, Mr. Keppler told Commission staff, "We're not doing very much."⁴⁴

The Federal Government funds two additional programs in Indiana aimed at improving employment conditions of migrants through education and job training. The first of these programs is operated by the Midwest Council of La Raza in South Bend. The program is currently funded through the Federal Manpower Administration under a 15-month grant of \$337,000. (vol. 4, p. 56)

This program is a part of the National Farmworker Program of the U.S. Department of Labor and is structured to provide the individual who wishes to leave the migrant stream with the opportunity to obtain the skills necessary to do so. (vol. 4, p. 46)

43. Fred Keppler, director, Occupational Health and Safety Administration in Indiana, staff interview in Indianapolis, July 11, 1974 (hereafter cited as Keppler Interview).

44. Ibid.

David M. Martinez, an ex-migrant who directs the La Raza program in South Bend, informed the Indiana Advisory Committee that the program "deals with the stumbling blocks that have traditionally prevented migrants from leaving the stream. Action is taken in the areas of employment, housing, medical needs, personal well-being, day care, education, and community acceptance." (vol. 4, p. 55)

Mr. Martinez added that since its inception in 1971, the program has served a total of 286 migrants, of whom 179 have thus far completed training and have been placed in positions. According to Mr. Martinez, the migrant entering the program had an average annual income of \$1,376. After graduation from the program and placement in a job, the average annual income was \$6,518, an increase of 374 percent.

He said that the employment of these "settled out" migrants in Indiana generated a total income of \$1,134,054, which made these workers an important part of the communities in which they lived.

A second program operated by Associated Migrant Opportunity Services, Inc., (AMOS) provides outreach and recruitment services, informing migrants of nonmigratory job opportunities and job training opportunities. The program coordinates the placement of migrants into manpower training slots throughout the State, refers migrants for direct placement in jobs, job development programs, and job training programs, and offers a variety of support services such as health care, legal assistance, transportation, emergency food relief, and assistance in finding housing.

According to AMOS records, during 1973 the program provided job placement to 431 individuals, outreach and recruitment services to another 1,244 farmworkers, and training opportunities to 1,379.⁴⁵

45. Associated Migrant Opportunity Services, "Plan for Employability Development of Farmworkers in Indiana" (1973), program synopsis FY 1973.

EDUCATION

EDUCATION...IS ONE LUXURY THE MIGRANT
HAS NOT BEEN ABLE TO AFFORD.

David M. Martinez, Indiana migrant
farmworker, now settled out.

Migrant farmworkers seldom obtain a formal education because of their transient life style and the economic necessity of putting children to work in the fields at an early age.

"The very nature of migratory work is such that education takes a back seat to essential needs such as shelter, food, and transportation," David Martinez, director of the Midwest Council of La Raza's settling out program in Indiana, told the Advisory Committee. "All members of the family must pitch in and work in an effort to earn enough to provide for these basic needs. Therefore, school age children must, as their parents before them, sacrifice the education which could break the chains that bind them to the migratory cycle," Mr. Martinez concluded. (vol. 4, p. 46)

"Even when children are not working the fields, however, and they attend schools in session, the education they receive is less beneficial than it might be," said Gary S. Goodpaster, University of California law professor, in testimony before the House subcommittee on agricultural labor. "Many communities which experience a seasonal influx of migrant workers are simply not prepared for them. The schools lack the financial resources, the classrooms, the special teachers, transportation vehicles and the equipment, textbooks, and supplies needed to reach and educate migrant children properly. There are grade placement difficulties...and valuable time is lost testing migrant children in order to make placement evaluations. Additionally,

the children may have arrived late and are thus behind the class to which they may be assigned."⁴⁶

In such States as Indiana, migrant children remain in school for only a few weeks, usually through the tomato harvest, which ends in mid-September. After the harvest, the family moves out of the State and the child is taken out of the school to be placed back in school in whatever area the family finds work.

Estimates of the average education attained by migrants vary, due primarily to the lack of adequate records upon which to base an estimate. Richard Martinez, research and systems analyst with the Indiana Department of Public Instruction's migrant education program, indicated that the median level education reached by migrants is the tenth grade.⁴⁷

In a 1970 report, the U.S. Department of Health, Education, and Welfare estimated the median education to be approximately the fourth or fifth grade,⁴⁸ while ex-migrants living in Indiana estimate that the "average education level of most migrants does not exceed the fifth grade and most often less." (vol. 4, p. 49)

School attendance by migrants in Indiana drops off sharply for high school age students. Total enrollment in 43 selected Indiana schools indicated an average of 222 migrant children in each elementary (1-8) grade, but an average of only 48 migrant children in each high school (9-12) grade, a drop of nearly 80 percent.⁴⁹

While most young people are moving into the period of physiological adolescence, or "youth," during the latter elementary school years, migrant young people, according to Dr. Robert Coles of Harvard University, are going directly into adulthood. "At 10 to 12, the children start becoming adults physiologically," Dr. Coles told the Senate's subcommittee on migratory labor. "Many of them have already been working for several seasons. It is not long before they are marrying and having children. Brides of 14 and 15 are common and their husbands are likely to be the same age or not very much older."⁵⁰

46. Seminar on Farm Labor Problems, p. 31.

47. Richard Martinez, research and systems analyst, Division of Migrant, Bilingual and Cultural Education, Department of Public Instruction, State of Indiana, staff interview in Indianapolis, July 10, 1974 (hereafter cited as Martinez Interview).

48. Impact of Federal Programs, p. 21.

49. Review of Title I migrant program proposals by U.S. Commission on Civil Rights staff, July-August 1974. (Hereafter all references to individual school funding or programs are from this source unless otherwise noted.)

50. Federal and State Statutes, p. 207.

With the responsibilities of adulthood, marriage, and earning a living thrust upon them at a young age, migrants have very little time for education.

The problems of migrant education were recognized by the U.S. Congress in 1966 with the passage of the migrant education amendment to the Title I education program. The migrant education program was designed to make money available to local school districts through a State-coordinated plan to provide "supplementary" programs dealing with the special language and cultural needs of migrant children.

"Today, 8 years later, we find that to a large degree the same problems exist," Charles de la Garza, director of the Division of Migrant, Bilingual and Cultural Education in Indiana, told the Advisory Committee. He added, "I do not discredit the fact that much has been done. Nevertheless, the Mexican American still has the highest dropout--pushout--rate and is the greatest contributor to the migrant stream.

"These problems have serious implications and are an indictment against the public school system and the educational process of this country," de la Garza concluded. "These facts indicate the need for changes in educational methods, techniques, and approaches at the college, State, and local level." (vol. 1, p. 75)

During the summer and fall of 1973, there were 43 migrant education programs funded through the Title I legislation in 31 of Indiana's 305 school districts. The programs served 2,606 of the State's 16,000 eligible migrant children.⁵¹ (See Exhibit VII.) A total of \$712,127 was budgeted for the program in FY 74.

The 43 programs varied in content and purpose. Some schools had special 4- to 8-week summer programs, but other programs operated either during the regular fall term or in a summer/fall combination.

The Frankfort schools in Clinton County, for instance, operated a \$15,000 regular term program geared to provide special language skills to migrant children. Bilingual teacher aides, a full-time teacher, and a counselor were combined to provide liaison with the migrant parents. A pre-entry testing program was in operation prior to the opening of school, and special language training was provided up to 6 hours a day.

51. Indiana, State Plan for Migrant Education, application for program grant Title I. ESEA, FY 74 - 01, sec. 12. C., p. 4. This figure includes migrant children settled out for up to 5 years.

EXHIBIT VII

INDIANA TITLE I MIGRANT EDUCATION PROGRAMS - 1973

School Corporation	County	Type of Program	Enrollment
Northeastern	Shelby	Summer	28
Northeastern	Shelby	Regular Term	38
Surman-Dearborn	Dearborn/Ripley	Summer	81
Surman-Dearborn	Dearborn/Ripley	Regular Term	51
Highland	Lake	Summer	39
Scott Co.	Scott	NA*	NA*
East Allen	Allen	Summer	38
East Allen	Allen	Regular Term	58
Maconaquah	Miami	Regular Term	111
Goshen	Elkhart	Summer	63
Goshen	Elkhart	Regular Term	14
Eastbrook	Grant	Regular Term	11
Randolph Eastern	Randolph	Summer	37
Randolph Eastern	Randolph	Regular Term	37
Jay (Portland)	Jay	Summer	80
Jay (Portland)	Jay	Regular Term	78
Benton	Benton	Summer	18
Adams Central	Adams	Regular Term	34
Rensselaer	Jasper	Summer	59
Rensselaer	Jasper	Regular Term	25
Huntington City	Huntington	Regular Term	48
Carroll	Carroll	Regular Term	49
Northern Wells	Wells	Regular Term	54
Alexandria	Madison	Regular Term	49
Lakeland	Kosciusko	Summer	28
Lakeland	Kosciusko	Regular Term	76
Southeastern	Cass	Summer	130
Liberty Perry	Delaware	Regular Term	119
Southeastern	Cass	Regular Term	131
Liberty Perry	Delaware	Summer	35
South Bend	St. Joseph	Summer	139
Oak Hill	Miami/Grant	Regular Term	165
Culver	Marshall	Regular Term	24
New (Rolling) Prairie	LaPorte/St. Joseph	NA*	24
Elwood	Madison	Summer	197
Elwood	Madison	Regular Term	39
South Adams	Adams	Regular Term	26
Northern Tipton	Tipton	Regular Term	54
Eastern	Howard	Regular Term	22
Bluffton	Wells	Regular Term	23
Clinton Central	Clinton	Summer	19
Clinton Central	Clinton	Regular Term	30
Kokomo	Howard	Summer	225
TOTAL: 43 Programs			2,606

* Not Available, school corporation did not file an evaluation report.

Source: Title I migrant education program evaluation forms for 1973, on file with the Indiana Board of Public Instruction, compilation by Commission staff, July 1974.

Scott County School District No. 1, on the other hand, used its entire \$900 appropriation to pay the rental fees on books used by migrant children.

In order to insure the proper usage of Title I migrant funds, Federal regulations require that all monies be used to "supplement" and not "supplant" State or local school funds. Federal money may not be used to pay for programs and services normally funded by the State or the local education agency.⁵²

"This means that services that are already available or will be made available for children in the nonproject areas should be provided on an equal basis in the project areas with State and local funds rather than with Title I funds," according to the Title I program guide.⁵³

"In my study of the relevant provisions of the statutes, regulations, and guidelines," R. Stephen Browning, attorney with the Lawyers' Committee for Civil Rights Under Law, told Commission staff, "I have concluded that if certain educational services which are provided on a regular basis in non-Title I schools and paid for by State and local funds are to be provided in a Title I school, they must be paid for by local and State funds and not Title I funds."⁵⁴

A review of the Indiana Title I migrant programs by the Commission staff indicated, however, that a number of expenditures were being made for instructional and auxiliary services which are ordinarily paid for by State and local funds.

In the Tipton Community School District, for example, approximately one-half of the salaries of 12 elementary school teachers were paid out of Title I funds during the time migrants were in school.

52. "In order to ensure that Title I funds are used for the special educational needs of educationally deprived children, the [local school] District is forbidden by the supplanting provision from using these Federal [Title I] funds to provide instructional or auxiliary services in project area [Title I] schools that are ordinarily provided with State and local funds to children in non-project area [non-Title I] schools." 45 CFR 116.17 (h).

53. ESEA Title I Program Guide #44, Mar. 18, 1968.

54. Letter to Commission staff, Sept. 23, 1974. The Lawyers' Committee for Civil Rights Under Law has published A Manual For Enforcing Title I Comparability and has been the legal representative of plaintiffs in a number of court actions involving Title I expenditures.

According to the Tipton funding application, these were "regular classroom" teachers, who provided general services to all of the children in the school but no special program to the migrant pupils.

In an audit of Florida schools, the Department of Health, Education, and Welfare ruled that such expenditures "supplanted" State and local funds and were not in compliance with Federal regulations.

"We found that teachers and teacher aides paid with migrant program funds...were being used as general classroom teachers and aides, providing services to all children in the school," the audit concluded. "We have questioned over \$143,000 [of funds so spent] as being supplantive."⁵⁵

In addition to the Tipton School District, a number of other Indiana migrant programs included the salaries of regular classroom teachers and aides in their Title I migrant budgets. The Huntington School Corporation paid the salary of the industrial arts teacher during the period migrants were in school even though the migrant children attended his class for only a small portion of the school day. The Sunman-Dearborn School Corporation paid \$3,750 in salaries to one teacher and four teacher aides who served in regular classroom positions, according to the district's funding application. Maconaquah School Corporation in Miami County used Title I funds to pay the salaries of five teachers and five aides who served in regular classrooms providing instruction for nonmigrant as well as migrant students.

A number of Indiana school districts used Title I funds to pay overhead costs normally paid for by State and local educational agencies in non-Title I schools. According to DHEW, such overhead costs can be funded only when they can be "documented and substantiated as directly related to the project."⁵⁶

55. U.S., Department of Health, Education, and Welfare, Audit Agency, Florida State Department of Education, Tallahassee, Florida: Report on Audit of Migrant Education Program (April 1971), p. 13 (hereafter cited as Florida Audit).

56. U.S., Department of Health, Education, and Welfare, Audit Agency, North Carolina State Department of Public Instruction, Raleigh, North Carolina: Report on Audit of Migrant Education Program Under Title I of the Elementary and Secondary Education Act (May 1972), p. 20 (hereafter cited as North Carolina Audit).

While non-Title I schools throughout the State fund janitorial services as a part of "free education," the Oak Hill United and Blue River Valley School Corporations used migrant education money to pay their janitors' salaries.

While non-Title I schools throughout the State provide bus transportation to and from school as a part of "free education," Plymouth, Culver, Oak Hill, United, and Blue River Valley School Corporations used migrant education money to pay bus drivers' salaries.

Non-Title I schools throughout the State also provided funds for nurses as required by State regulations. The Eastbrook, Oak Hill, United, Madison-Grant, Rossville, and Sunman-Dearborn School Corporations paid all or part of their school nurses' salaries out of Title I migrant education money.

While each of these expenditures for overhead costs was allowed by the State Division of Migrant, Bilingual and Cultural Education, not one of the applications included any documentation or substantiation indicating that these overhead costs were directly related to the project or that such funding was not normally provided for all children in non-Title I schools either by the State or local educational agencies.

Even if such costs had been shown to be directly related to the migrant project, Federal guidelines require that "...there can be no Federal financial participation on overhead costs which are arrived at on a straight percentage basis." Instead, DHEW requires before-the-fact and after-the-fact documentation of the exact number of hours devoted to the migrant education program.⁵⁷

Many Indiana schools spent migrant funds on overhead costs based on a straight percentage basis, however, without before- or after-the-fact substantiation of the expenditures.

The Benton Community School Corporation included the salary of its administrator and guidance counselor in its budget, both figured on a straight 33-percent-of-total-time basis. No verification of the time spent on the program was submitted.

The Plymouth School Corporation included 4 percent of the director's salary, 3 percent of his secretary's salary, 2 percent of the financial secretary's salary, 62 percent of a teacher aide's

57. Ibid., pp. 20-21.

salary, and 29 percent of the salaries of two clerks. No verification or documentation of the actual time spent on the program by these salaried employees was provided.

The Culver School Corporation included its clerical aide's salary, calculated on a straight 25-percent basis. No verification or substantiation was provided.

In DHEW's audit of North Carolina migrant programs, such unsubstantiated, prorated expenditures of funds were declared "supplanting," and the audit team recommended that all funds so spent should be refunded. In response to the audit, the North Carolina State Educational Agency incorporated the necessary measures to ensure that no overhead costs would be claimed on a straight percentage basis and that proration of salaries would be documented on both a before- and after-the-fact basis.⁵⁸

Federal guidelines governing the use of Title I funds require that all projects must be "designed specifically to meet special educational needs" of the children to be served.⁵⁹ The State's Guide for Objectives and Appraisal of the Indiana Educational Program buttresses the Federal law requiring that migrant programs shall "provide specially designed programs" and "specially designed activities" (emphasis added) to meet the unique educational needs of migrants.⁶⁰

Many Indiana migrant projects met neither the requirements of the Federal law nor the State guidelines. The Madison Grant School system, for example, had no "program" at all. Instead, it used all of its \$1,500 migrant grant to pay for overhead costs, including school textbook fees, supplies, bus transportation, noon lunch, morning milk, and the school nurse. According to the corporation's project proposal, "Migrant children will be placed in their appropriate grade level and taught with our regular children."

The Scott County School Corporation used its entire \$900 appropriation to pay itself book-rental fees for regular classroom books used by migrant children. The Randolph Eastern School Corporation received a grant of \$3,095, even though no project description whatsoever was included in the corporation's application records maintained by the Division of Migrant, Bilingual and Cultural Education.

58. Ibid., p. 22.

59. 45 CFR §116.17 (a).

60. State of Indiana, Department of Public Instruction, Guide for Objectives and Appraisal of the Indiana Migrant Educational Program (1971), p. 3 (hereafter cited as Guide for Objectives).

The Bluffton School Corporation in Wells County used its \$1,200 migrant education budget to send the project director to workshops and conferences, to pay an aide who enrolled migrant children in the school, and for book rental fees. The corporation included no program "designed specifically to meet special educational needs" of migrants in its funding application, and according to the application, the corporation had "no problems in our system on the instructional needs" of migrant children.

In its program description, the Eastern School Corporation in Howard County stated that, "We are requesting funds only for those items that are a direct expense to us," including bus transportation book rental fees, supplies, and a teacher's aide. No special program was designed, and according to the application, all migrant children were to be placed in the school's regular classrooms.

The Southern Wells Corporation in Wells County used its entire budget of \$2,600 to cover the overhead costs of transportation, food, book fees, and attendance records. The corporation had no program, and according to its funding application, the migrant children were "absorbed into the regular school program."

The Guide for Objectives and Appraisal of the Indiana Migrant Education Program also calls for "a comprehensive approach to the migrant education program," including "parental and community involvement." The guide concludes that parental participation is "considered necessary" to the success of the program.⁶¹

A Commission staff review of project proposals submitted by local school districts indicated that few of the programs involved migrants in either the planning or evaluation of the migrant education program. When asked to describe parent and community participation, one school district administrator answered, "Efforts and plans are always made to involve parents, growers, et al in the school program. As a matter of fact, and for the record, parents and other workers have open permission to use the high school baseball field. Playground equipment and play areas also may be used at the Bunker Hill Elementary School."

Another school district indicated that it received parental participation through an "advisory committee." Migrant parents were not included on the committee.

61. Ibid., p. 1.

Another district indicated that it enlisted the participation of migrant parents through working with church councils, social services, action clubs, and "special persons." Migrant parents were not listed among the participants.

Another district responded that the migrant parent participation requirement was fulfilled by the fact that the "school is represented on the board of directors of the County Migrant Ministry Program." The district failed to explain how migrant parents directly participated in the school program in any way.

Some schools attempted to provide for meaningful input from migrant parents, however. The Rensselaer Central School Corporation held a planning session, including growers, migrants, school administrators, and volunteer workers. Triton North School District designated a committee of "local residents, school principals, and several members of the migrant camp," while the East Allen District provided for a "planning" session prior to the program, and an "evaluation" session at the end of the program in which migrant parents participated.

"What is needed is meaningful participation by migrant parents across the State," said Daniel Tirado, project development specialist with Associated Migrant Opportunity Services, "--participation in the planning, the development, and the implementation of the migrant child's education."⁶²

Under DHEW guidelines, the State Educational Agency (SEA) has responsibility for the design, administration, and evaluation of a comprehensive statewide program for migrant children. This responsibility includes maintaining control over local educational agencies to ensure that funds are used to meet the special educational needs of migratory agricultural workers' children.⁶³

In Indiana the responsible State agency is the Division of Migrant, Bilingual and Cultural Education. That division, as well as a selected local education agency, was reviewed by the DHEW's Office for Civil Rights to determine the policies, procedures, and managerial controls exercised by the SEA and to determine whether the State and local agency were meeting their obligations under the Civil Rights Act.

62. Staff interview in Indianapolis, July 9, 1974 (hereafter cited as Tirado Interview).

63. Florida Audit, p. 2.

In its review, DHEW found "several serious questions concerning the status of the State Education Department's compliance with Title VI of the Civil Rights Act of 1964" including: (1) failure to review and approve curricular materials linguistically and culturally appropriate to Spanish speaking migrant children, (2) failure to insure that faculty and staff were recruited and hired from minority groups able to best serve Spanish speaking children, and (3) that the local school district surveyed failed to adequately communicate school policies, activities, and related functions to parents of migrant children in a language the parents were able to understand.⁶⁴

Mr. Tirado pointed out to the Advisory Committee what he considered shortcomings of migrant education in Indiana. "As the law is now written," he said, "the State cannot require a local school district to apply for funds to operate a special migrant program even if the district has a large migrant population. The result is that some children receive the special benefits of the program while others suffer without it.

"Federal funding is available to any school district that is eligible," Mr. Tirado continued. "And if they refuse to run a program, that is discrimination."⁶⁵

State migrant education director Charles de la Garza agreed: "We cannot demand that a local educational agency implement a program. We try to inform and encourage them to adopt a program, but in the end it is up to the local school corporation to decide if it wants to run a migrant program."⁶⁶

Margarita Renteria, an equal opportunity expert with the DHEW review team in Indiana, indicated that the refusal of a school corporation to apply for migrant education funds did not necessarily constitute discrimination so long as the school provided the child with an "equal" education.

"The Civil Rights Act and department policy require that services be delivered by agencies and institutions...in a manner which is equally effective--not necessarily identical--for all racial and ethnic groups," Ms. Renteria told the Advisory Committee. "One of the most vivid applications of this principle is with respect to children who speak and understand a language other than English," she continued. "It is

64. Kenneth A. Mines, director, Office of Civil Rights, U.S. Department of Health, Education, and Welfare, letter to Harold H. Negley, Indiana Superintendent of Public Instruction, and letter to Dr. Gerry L. Hathaway, superintendent, Southeastern School Corporation, Oct. 21, 1974 (copy in Commission files).

65. Tirado Interview.

66. De la Garza Interview.

clearly discriminatory--and thus illegal--to provide instruction only in English to such children." (vol. 1, pp. 41-42)

Indiana school corporations which do not apply for Title I migrant funds would thus have to supply their own bilingual, bicultural programs to migrant children in order to provide an "equal" education free of discrimination. According to Richard Martinez, systems analyst for the Division of Migrant, Bilingual and Cultural Education, only one of the State's school corporations not receiving Title I migrant funds is known to provide its own special bilingual migrant program.⁶⁷

While the State does not have authority under Title I legislation to require eligible Indiana schools to apply for migrant funds, it does have authority to see that all school districts meet the educational needs of minority students in a nondiscriminatory manner and to deny State support to any school in violation of the law. When asked by the Advisory Committee whether he felt it was the responsibility of the State Superintendent of Public Instruction to see that local educational agencies meet the needs of migrant children in a nondiscriminatory manner, Charles de la Garza responded, "Yes sir, I do." (vol. 1, p. 98)

In addition, a 1974 amendment to the Title I regulations now authorizes State educational agencies to provide migrant programs directly to migrant students without going through the local school corporation.⁶⁸ "A State educational agency...shall be entitled to receive a grant for any fiscal year...to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory workers...."

The State of Indiana has a "90-day loophole" clause which exempts migrants from the compulsory school attendance law. Under this provision, migrant children who reside in a school district for less than 90 days or intend to reside in the district for less than 90 days are not required to attend school.

"The 90-day loophole definitely works against us," said Charles de la Garza. "We are in the process of trying to get that changed during the current State legislative session."⁶⁹

67. Martinez Interview.

68. Pub. L. No. 93-380, §122(a)(1).

69. De la Garza Interview.

Many children are forced to remain out of school and babysit for younger brothers and sisters because the State does not provide funding or support for day care centers.

"There are no day care centers for migrant children," Alcosta Montano of the Texas Migrant Council, a DHEW-funded service agency, told the Advisory Committee. "The State of Indiana can't care for these migrant children. That's why we are here." (vol. 4, pp. 70-71)

"In 1972 the Title I migrant education component did a needs assessment, and among the things that were mentioned, day care was first," Jean Uher, Indiana liaison for the Texas Migrant Council, told the Advisory Committee. "Migrants said, 'We come here to work. If there were day care centers like other States have, the older children or the wife could work and earn more money.'" (vol. 4, p. 73)

As a result of the State's failure to provide day care facilities, the Texas Migrant Council, with the aid of DHEW funds, comes into Indiana each migrant season and organizes day care centers. Ms. Uher told the Advisory Committee that the council operated 14 centers throughout the State during 1974. However, nine additional centers are needed in order to adequately serve the entire migrant population, she said. (vol. 4, pp. 74-76)

The Indiana centers are staffed by 138 professionals and nonprofessionals, including 14 bilingual teachers who travel to Indiana with the migrant stream. Children in the program, according to Mr. Montano, are provided with transportation, breakfast, lunch, and snacks, as well as educational and recreational programs. The centers are open to children from the age of 6 weeks to 5 years old. (vol. 4, pp. 77, 84)

HEALTH

AS DISEASE WORSENS, WORK LESSENS, FOOD LESSENS,
AND THE CIRCLE IS COMPLETED WITH DEATH, AT AN
AVERAGE OF 20 YEARS YOUNGER THAN OTHER U.S.
CITIZENS.

Associated Migrant Opportunity
Services Health Project Proposal,
1974.

Migrant farmworkers are vulnerable to disease and poor health due to their below-poverty-level income and lack of formal education.

During 1973, Associated Migrant Opportunity Services (AMOS) estimated that less than 8 percent of the migrants in Indiana saw a physician,⁷⁰ while approximately 70 percent of all Americans see a physician at least once annually.⁷¹ That same year it was estimated that the per capita expenditure for personal health services for Indiana migrants was \$6.00. Nationally the average per capita expenditure for health services was \$250.00.⁷²

Officials operating federally funded migrant programs in Indiana estimate that 8 out of 10 migrants are in need of health care of some description (vol. 4, p. 52) and that nearly 4 out of 10 migrants display symptoms of severe chronic illness. (See Exhibit VIII.)

70. AMOS, "Migrant Health Project Grant Application to DHEW" (1974), sec. 1, p. 2 (hereafter cited as AMOS Health Project).

71. U.S., Department of Health, Education, and Welfare, National Health Service survey HSM 72-1064, published 1972.

72. AMOS Health Project, sec. 1, p. 2.

EXHIBIT VIII

INCIDENCE OF CHRONIC ILLNESS AMONG
INDIANA MIGRANTS - 1973

Age	Number of Migrants Examined*	Cases of Chronic Illness	Percent
Under 1 year	3	0	-
1-4	4	0	-
5-14	17	3	18%
15-24	8	2	25%
25-44	7	6	86%
45-64	6	6	100%
65 & Over	0	0	-
Total	45	17	38%

*Examination conducted at the Associated Migrant
Opportunity Services Logansport clinic.

Source: Associated Migrant Opportunity Services migrant
health project grant application to U.S. Department
of Health, Education, and Welfare, 1974.

"The migrant farmworker suffers from the effects of poverty, poor sanitation, poor nutrition, and exclusion from medical systems," Goodrun Geibel, a registered nurse who directs the AMOS health project, told the Advisory Committee. (vol. 3, pp. 28-29) "Even when medical care and supportive services are available, the migrant cannot use them in an effective manner to provide himself with good preventive and primary health care.

"The need for prenatal, well-baby, and yearly physical exams is not understood," Ms. Geibel continued. "Physician's orders are frequently not followed due to language barriers, lack of understanding of the need for the expected behavior, and an inability to comply with the physician's advice; i.e., antibiotics are taken only until the symptoms disappear. A mother does not follow her physician's orders to call when her baby's temperature goes above 102° because she does not know how to take a temperature, she does not have a thermometer, and the nearest telephone is miles away."

Migrant health needs have been further compounded by the low doctor/patient ratio in the State. In 1971 the doctor/patient ratio in Indiana was 40 percent below the national average of 174 doctors per 100,000 residents. Only 10 States in the Union had fewer than Indiana's 107 doctors per 100,000 residents.

Dentists and registered nurses were also in short supply in the State. During 1971, Indiana had 17 percent fewer dentists than the national average of 47 per 100,000 residents.⁷³

Generally, the migrant turns for help to the government agencies responsible for health care in the State. The record of these agencies in migrant health treatment, according to Goodrun Geibel, has been "less than impressive."⁷⁴

While migrants are a regular, predictable part of the population of the State, the Indiana Comprehensive Health Planning Agency (CHP), which has responsibility for planning and insuring adequate health care in the State, has never included the farmworkers in its research, analysis, or planning activities. "In the case of migrant health matters," said Richard Thompson, director of the State CHP, "we have not been directly involved.

73. U.S., Department of Commerce, Bureau of the Census, Statistical Abstract of the United States, 1973, p. 72.

74. Staff interview in Indianapolis, July 10, 1974.

"As far as this office is concerned, we have never delt specifically with migrants, although it would be an appropriate area to look into," Mr. Thompson continued. "There is only so much you can do."⁷⁵

Alice Hunter, administrative officer for the Comprehensive Health Planning Agency, told the Advisory Committee that there currently are no migrants or Spanish speaking members on the 74-member advisory board to the CHP. "There are voices that are much louder and much more demanding [than the migrant]," concluded Ms. Hunter. "Oftentimes these voices and their concerns are addressed initially." (vol. 4, pp. 41-42)

Analysis and planning for the migrants' health needs have been overlooked by other State agencies as well. "To my knowledge, no statewide survey or evaluation of migrant health needs has been done by anyone," Dr. Vernon Harvey, director of the State Health Department's Division of Maternal and Child Care, told the Commission staff. "The State Board of Health has no comprehensive health care plan for migrants."

The State Board of Health has, however, attempted to provide health services to migrants. For a number of years, the State's mobile chest x-ray unit visited the camps to give free chest x-rays. "The program was discontinued 7 or 8 years ago," said Dr. Harvey. "It just wasn't productive."⁷⁶

The State currently funds a summer dental program, which employed four dentists from May through October in 1973. The purpose of the program, according to Dr. Harvey, was to:

- 1) Introduce dentistry to migrant children and provide preventive dental care;
- 2) Inform schools and parents of children's needs; and
- 3) Produce a statistical picture for future planning.

75. Staff interview in Indianapolis, July 18, 1974.

76. Staff interview in Indianapolis, July 12, 1974 (hereafter cited as Harvey Interview).

Dentists in the program were employed over a period of 105 working days; during this time 1,023 of the State's 16,000 migrant children were examined. State records indicate that these examinations were conducted on 27 separate days, or 1 out of every 4 days the dentists were employed. (See Exhibit IX.)

The dental examinations revealed that 75.5 percent of the migrant children tested were in need of dental care. They were referred to local area dentists. None were treated by the dental unit itself.

The Division of Maternal and Child Care also provided funds for the employment of migrant health nurses in 14 of the State's 43 counties having migrant populations. The nurses had no unified obligations or duties, and their programs varied from simple referral service to direct patient care.⁷⁷

During 1973 the nurses provided direct services to 678 individuals, approximately 12.5 percent of the total migrant population in the 14 counties. In 4 of the 14 counties, no individual direct nursing service was provided, and in one of these counties, no medical or dental health referrals were made by the nurse.

In those counties served, a total of 537 medical and dental care referrals were made by the nurses, and a total of 2,896 family visits were made. (See Exhibit X.)

Sue Hoffman, the county health nurse representing the Johnson County Health Department, testified that migrants had few health problems. "To me, they seemed like they were a pretty healthy bunch of kids," she told the Advisory Committee. "And the adults seem healthy to me." (vol. 3, pp. 111-112)

Asked if she had actually seen most of the adults in the camp for examination or diagnosis, the nurse responded, "No. which is a problem. I see the same adults practically each week when I go. I just see the same adults." Commenting on the actual health services provided to the camp, she responded, "I am sorry to say I really haven't done a lot." (vol. 3, pp. 117-118)

According to Dr. Harvey, the total budget for the migrant dental program and the migrant nurses program is \$50,000.⁷⁸

77. Ibid.

78. Harvey Interview.

EXHIBIT IX

EXAMINATIONS OF MIGRANT CHILDREN - 1973

Indiana Migrant Dental Program

COUNTY	SCHOOL	DATE	CHILDREN SEEN
Shelby	Triton North Elementary	6-13-73	8
Benton	Benton Central High School	6-15-73	21
Jasper	Rensselaer High School	6-20-73	33
Henry	Blue River Valley School	6-27-73	10
St. Joseph	Greene Township School	7-2-73	59
Lake	Warren Elementary School	7-9-73	26
Marshall	West Elementary School	7-12-73	61
Madison	Edgewood Elementary School	7-24-73	54
Clinton	Rossville High School	7-27-73	71
Ripley	Sunman Elementary School	7-30-73	18
Cass	Lewis Cass High School	8-1-73	62
Allen	Monroeville Elementary School	8-9-73	14
Howard	Kokomo Roosevelt Elementary School	8-14-73	104
Randolph	Union City North Side Elementary	8-20-73	28
Delaware	Perry Elementary School	8-22-73	29
Jay	Redkey Elementary School	8-30-73	44
Adams	South Adams Elementary School	9-4-73	52
Grant	Upland Elementary School	9-6-73	11
Wells	Ossian Elementary School	9-10-73	40
Huntington	Warren Elementary School	9-12-73	23
Miami	Bunker Hill Elementary School	9-17-73	47
Madison	Orestes Elementary School	9-23-73	26
Miami	Converse Elementary School	9-25-73	107
Grant	Pt. Isabel Elementary School	9-28-73	20
Howard	Greentown Elementary School	9-28-73	6
LaPorte	Rolling Prairie Elementary School	10-2-73	12
Kosciusko	Milford Elementary School	10-3-73	14
Clinton	Frankfort Woodside Elementary	10-5-73	23
			1,023

Source: Division of Maternal and Child Care, Indiana Board of Health.

EXHIBIT X

SERVICES PROVIDED BY THE 15 STATE-FUNDED
MIGRANT HEALTH NURSES - 1973

<u>Nursing Services</u>	Number of Migrants Affected
Family visits	2,896
Direct nursing service	678
Visits to day care centers serving migrants	124
Migrants given health records	79
Health supervision, counseling, teaching, demonstrations	1,104
Referrals for medical and dental care	537
Referrals completed	28
<u>Community Contacts</u>	
Physicians	189
Dentists	75
Hospitals	100
Trustees	24
Welfare Department	35
Council of Churches	50
Associated Migrant Opportunity Services	75
Growers	31
Canners	18
Police	5
Other	230

Source: Division of Maternal and Child Care, Indiana Board
of Health, Annual Report-Nursing Services, 1973.

In addition to the 14 counties with State-supported migrant health nurses, 15 counties of the State provide migrant health care through the regularly employed county health nurse who participates in camp visits, school visits, and day school visits. No evaluations or reports of these activities are required, however, and the State Board of Health does not monitor the programs to ascertain their effectiveness.

In the remaining 14 counties of the State which have migrant populations, there are no migrant health care plans or programs in effect.⁷⁹ No State or local health programs reach the more than 4,000 migrants living in these counties.

Associated Migrant Opportunity Services, Inc., receives Federal funding from DHEW to provide health care to those migrants who are refused care by the State or local agencies. Funds are currently budgeted for inpatient care, outpatient care, physicians visits and treatment, dental services, and laboratory and x-ray services.

The project also funds "health specialists" who make regular camp visits to give medical advice, make preliminary diagnosis of problems, and make referrals to the appropriate doctors or clinics. AMOS also maintains two health centers in the State which provide preventive care, early detection screening, primary care, followup services, and education.

During 1973 AMOS conducted an experimental program to provide comprehensive health care to a limited number of migrants while providing episodic care to the remaining migrant population. Under the comprehensive program, 299 migrants saw physicians during the year, and 1,283 nonenrollees were provided with physician visits.⁸⁰

Under provisions of the Hill-Burton Act, migrants in Indiana are eligible to receive free or partially free hospital care. This act requires hospitals receiving Federal funds to provide a "reasonable volume" of free health care to patients unable to pay all or a part of their bill.⁸¹ Hospitals can choose one of a variety of methods to comply with the reasonable volume provision, including the institution of an "open door" policy, or by providing free health care equal to 3

79. Ibid.

80. AMOS Health Project, introduction, pp. 1-2.

81. 42 CFR §53.111(a).

percent of their annual operating costs, or equal to 10 percent of the amount of Federal assistance provided.⁸²

Of 72 Hill-Burton facilities surveyed in Indiana, 49 chose to provide an "open door" policy in which the hospital guarantees that "it will not deny admission to, and services at, its facility to any person unable to pay therefore...."⁸³

While nearly every one of Indiana's hospitals falls under the Hill-Burton regulations, some reportedly refuse to provide care to migrants who are unable to pay. "Many hospitals refuse to admit patients before proof of financial responsibility is presented," said AMOS health project director Goodrun Geible. "Other hospitals refuse to admit patients unless a doctor signs the admitting papers," she continued, "and migrants can't get a physician because the physician already has a patient overload and will not accept new patients."⁸⁴

The current regulations for monitoring Hill-Burton hospitals do not require the reporting of patients by race or occupation. It is therefore impossible to verify the service of Hill-Burton hospitals to Mexican American migrant farmworkers.

One farmworker described his experience in dealing with illness --an experience reflecting the dilemma of other migrants in Indiana: "I couldn't afford the medicine in the first place, much less a doctor, and when I got sicker and couldn't work as good, I couldn't eat right, especially being alone. I was just getting worse and worse until the crew leader took us back at the end of the season, and my relatives looked after me. Lucky this year, I haven't gotten sick--yet."⁸⁵

82. Ibid., §53.111(d).

83. Review of Hill-Burton records, Indiana Board of Health, Indianapolis, by Commission staff, July 25, 1974.

84. Geibel Interview.

85. AMOS Health Project, sec. 1, p. 4.

HOUSING

LARGE HOLES IN THE FLOORS, CEILINGS, AND WALLS, ALMOST ALL THE WINDOWS WERE CRACKED OR BROKEN, PLASTER FALLING FROM THE ROOF, LANDING STEPS ABOUT TO COLLAPSE, BAILED HAY IN THE BACK ROOM OF THE HOUSE...WATER SOURCE LOCATED IN THE MIDDLE OF A HOG PEN...

Description of an Indiana migrant housing camp included in a State health inspector's report, June 1974.

Migrants working in Indiana, as elsewhere in the Nation, live in housing provided by farmers and growers.

"This has been a point of irritation for both growers and migrants over the years," according to Lee Reno, writing in Pieces and Scraps. "Growers complain that they are the only employers in the country who are required to furnish housing for their labor force. This contention is often used to justify why stricter farm labor housing codes should not be enacted or actively enforced.

"Migrants complain that housing provided by growers is used as an unreasonable tool by their employer to gain an unfair bargaining position and control over their private lives," Mr. Reno concluded. "It is well documented that a large number of labor camps run by growers, groups of growers, or labor contractors often become virtual prisons for the employees and families who occupy them."⁸⁶

86. Lee P. Reno, Pieces and Scraps--Farm Labor Housing in the United States (Washington, D.C.: Rural Housing Alliance, 1970), p. 25.

Because of the disparity in "bargaining power" between migrants and employers, housing conditions for migrants have traditionally been poor. "Migrants live in dilapidated, drafty, ramshackled houses that are cold and wet in the winter, and leaky, steaming, and excessively hot in the summer," reported the President's National Advisory Commission on Rural Poverty. "Insufficient ventilation, poor or no mattresses, unsanitary privies and bathing devices, and unsanitary storage and disposal of garbage and refuse are too often the prevailing conditions."⁸⁷

Indiana is reportedly not without its share of poor migrant housing conditions. "Indiana has the worst camp conditions of any State I have been to," testified Aurelia Vasquez, a migrant for 12 years who now travels from State to State with the day care program of the Texas Migrant Council. "The camps here are not in good condition." (vol. 4, pp. 70-71)

Gilbert Cardenas, of the Center for Civil Rights at the University of Notre Dame, reported that, "The problem is so bad that if existing regulatory measures pertaining to farm labor housing were enforced throughout the Midwest, it might be that over 50 percent of the labor camps would be permanently closed down, and perhaps 70 percent to 80 percent would have to undergo major changes to comply with minimum standards."⁸⁸ (See Exhibit XI.)

A survey of Indiana's migrant camps by the U.S. Commission on Civil Rights revealed that 82 percent (153 of the total 187 camps) had been cited by health inspectors for violations of the State housing code during FY 74. Sixty-four of those camps had been cited for 10 or more separate violations of the code, including such serious violations as:

dirt in women's privies allowing insects
and rodents

occupants complained of rats (a later report
noted, 'fire department burned buildings with
rats')

87. President's National Advisory Commission on Rural Poverty, The People Left Behind (September 1967), p. 99.

88. Gilbert Cardenas, The Status of Agricultural Farmworkers in the Mid-West (prepared for the American Society of Planning Officials, January 1974), p. 34.

EXHIBIT XI

MIGRANT CAMP INSPECTIONS BY THE
INDIANA BOARD OF HEALTH

JULY 1, 1973 - JUNE 30, 1974

Camps Inspected - 187

Number of Inspections - 1,189

Camps Cited for Code Violations - 153

Camps Cited for Five or More Code Violations - 118

Camps Cited for 10 or More Code Violations - 64

Total Code Violations Cited (All Camps) - 2,855

Total Permitted Occupancy - Adult Workers - 8,170

Total Permitted Occupancy - Workers and Families - 10,819

Permit Denials - 46

Permit Revocation Hearings - 10

Permit Revocations - 9

Permit Revocations During Migrant Season - None

Source: Migrant camp inspection files, Division of Sanitation,
Indiana Board of Health, compiled by Commission staff,
July 1974.

the only windows in each unit are those in the doors, occupants are forced to open sliding metal doors to get ventilation

hot water heater not operating in shower building

urinal is not hooked up

eleven units unsafe

trash and debris scattered throughout camp, pits [privies] full.⁸⁹ (See Exhibit XII.)

Carlos Flores, a migrant presently working in Indiana, described to the Advisory Committee the camp conditions where he lives:

"The refrigerator is too small [and] we lose our food. The house has no floor covering. It hasn't been painted inside since it was built. There is no storage place to store our clothes...[and no] cabinets to store our food. There is no light switch to turn off the lights. The ceilings have fallen down and the screens are no good and broken. There is no lock whatsoever to lock it from the inside. There is no water facility inside the house. There are no toilets inside the house." (vol. 4, pp. 93-94)

Migrants also reported overcrowded conditions in the camps. Rafaela Alvarez, an ex-migrant presently working as a health specialist for AMOS, told the Advisory Committee that, "Sometimes there are even 10 persons sleeping in a one-room cabin." (vol. 3, p. 45)

Job orders processed by the Rural Manpower Service during 1973 revealed that entire families lived in 14- by 14-foot rooms containing "beds, mattresses, bottled gas, cooking range, electric refrigerator, table and chairs, and [an] electric space heater." Other job orders described "combination sleeping and living quarters," ranging in size from 11 feet by 20 feet to as small as 10 feet by 12 feet.⁹⁰

89. Review of migrant camp inspection records, Indiana Board of Health, Indianapolis, by Commission staff, July 22-24, 1974 (hereafter cited as Camp Inspection Review).

90. State of Indiana, Employment Security Division, clearance orders for agricultural labor: James R. Deniston, Morgan Packing Co., Vic Bernacchi & Sons, 1973.

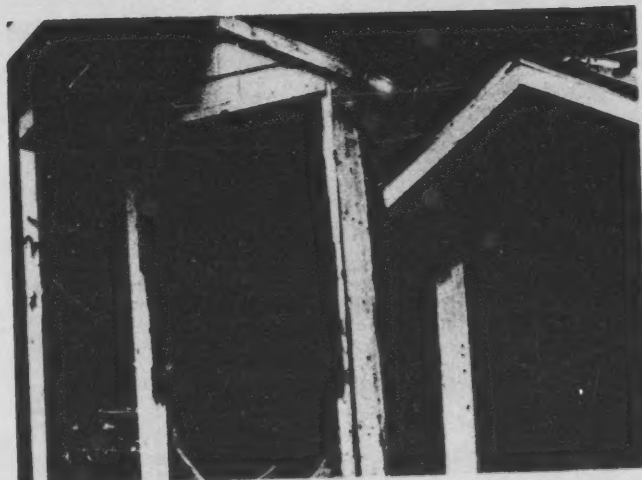
EXHIBIT XII

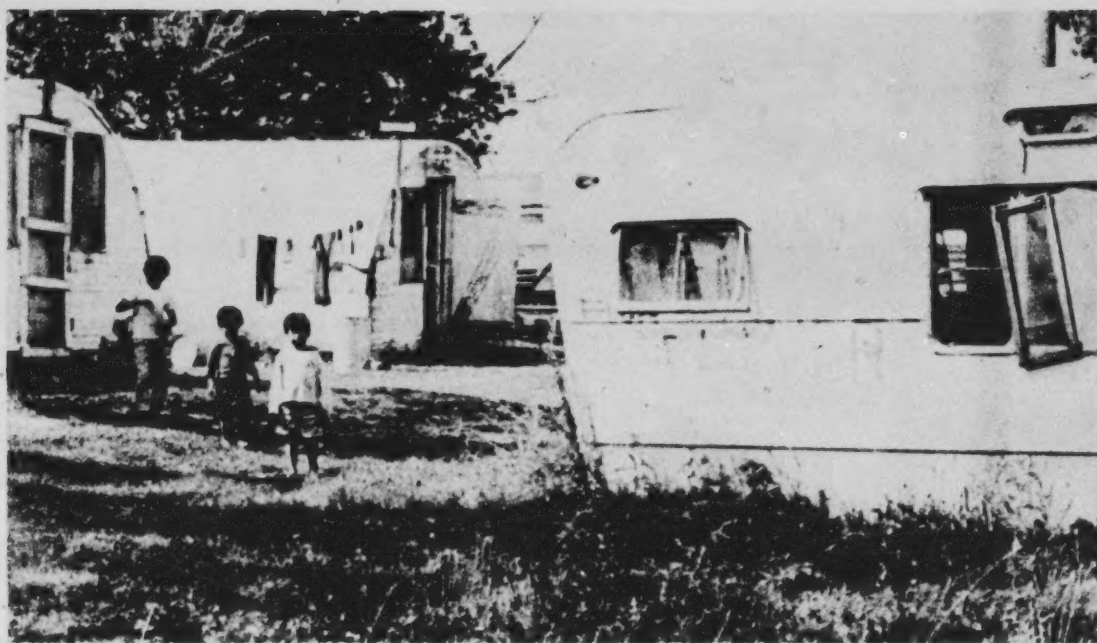
INDIANA MIGRANT CAMPS - 1971-1974

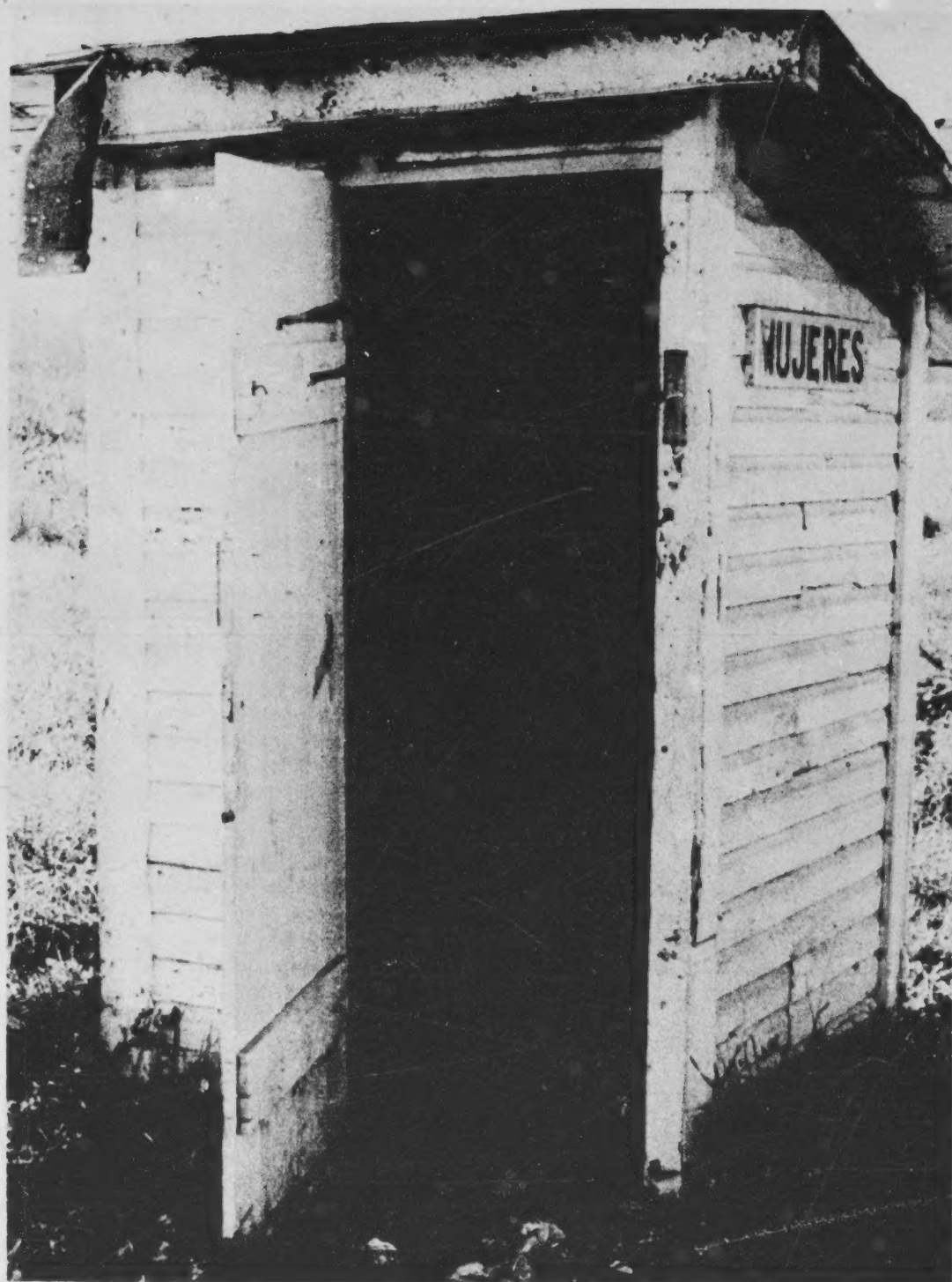


All photographs were reviewed by witnesses during the Indiana Advisory Committee's informal hearings and verified as to their representative nature. (vol. 1, p. 32; vol. 2, p. 61; vol. 2, p. 69; vol. 3, p. 66; and vol. 4, p. 98) Photos by Gilbert Cardenas and Carmelo Melendez.









Although the State housing code requires that there be no less than 60 square feet of floor space for each occupant in a combined sleeping, cooking, and eating unit, and no less than 50 square feet in units used exclusively for sleeping, the State has no record of these regulations being either investigated or enforced.

Of the 1,189 camp inspections made during FY 74 and on record with the health department, not one contained the results of a head-count, a survey of overcrowding conditions, an inquiry into the camp population, or a discussion with a camp owner or crew leader concerning compliance with overcrowding regulations.⁹¹

"I don't have any direct knowledge of overcrowding conditions," Durland Patterson, State sanitary officer in charge of migrant camp inspections, told the Advisory Committee. "Usually, during the year, we will conduct a head count as close as we can." (vol. 3, p. 70)

Mr. Patterson went on to tell the Advisory Committee that such head counts are not included in the camp inspection reports, that all information concerning head counts or overcrowding is "relayed verbally," and that no written records of overcrowded conditions are maintained by the State. He said that such head counts are difficult to complete and have inaccurate results because "generally, when our fellows [inspectors] are in the camp, it is during the working hours when most of the folks are out in the field working." As a result, according to Mr. Patterson, not one camp owner has been cited for an overcrowding violation in the past 5 years. (vol. 3, pp. 70, 75, 76)

Migrants and migrant representatives reported that health inspectors often did not bother to inspect the insides of buildings, that they sometimes conducted their inspection by "walking by the buildings" and that one inspector conducted his inspection "without ever getting out of his car."⁹²

Mr. Patterson conceded that health officials did not inspect the inside of housing units unless they were "invited in" or if the camp was unoccupied. (vol. 3, p. 71) Although the State law authorizes health department officials to "enter and inspect agricultural labor camps at reasonable hours," their policy of not entering living units makes enforcement of the State's regulations regarding shelter, heating, wiring and lighting, beds and bedding, insect and rodent control, and safety and fire prevention virtually impossible.

91. Camp Inspection Review.

92. Rafaela Alvarez, health specialist, AMOS, staff interview at Plymouth, Ind., July 18, 1974.

Indiana law requires that labor camp owners apply for a permit "not later than 60 days prior to the start of the operation of the camp."⁹³ This provision guarantees a sufficient time for inspections to be made and for violations to be remedied without subjecting the migrants to unsafe or hazardous living conditions or the possibility of being homeless because an owner could not make necessary improvements by the time of the migrants' arrival.

The law is ignored by camp owners and the State health department alike. In order for a camp to open by the height of the crop season (September 1), an application would have to be filed with the Board of Health by the Fourth of July to comply with the "60 days prior to opening" requirement. According to the Board's 1973 records, 67 of the State's 187 camps had not applied for permits by the July 4 deadline. Seventeen of those camps had still not applied by August 15, and 10 of the camps did not file applications until the first of September or later. No penalties were assessed against the offending camps.

Some of Indiana's migrant camps housed migrants even before a permit was applied for. According to health department records, at least 15 labor camps had migrants in residence at the time the permit application was made with the State.⁹⁴

When asked if he knew of instances where the State allowed camps to violate this law, and if the State in fact participated in the legal violations by granting such permit applications, Mr. Patterson answered, "I would say I don't know the exact number but, yes, there are some." (vol. 3, p. 74)

According to Gilbert Cardenas, "The most universal approach toward regulating farmworker housing...has been to set minimum standards and attempt to enforce them through the issuance of licenses or operating permits." Mr. Cardenas pointed out, however, that, "without the establishment of proper instrumentalities and without rigorous administration, such regulatory measures remain ineffective and do not help alleviate the housing situation for migrant farmworkers and their families."⁹⁵

93. Indiana Board of Health, Regulation HSE29-R, §2(b)(1).

94. Camp Inspection Review.

95. Gilbert Cardenas, Center for Civil Rights, University of Notre Dame, staff interview at South Bend, July 1974.

While Indiana has provided a regulatory code for migrant housing under HSE 29, the continued existence of deteriorated housing conditions, as attested to in complaints, independent housing inspections, and health department records, indicates a failure in the area of enforcement.

The State's enforcement tools include: 1) permit denial, 2) permit revocation, and 3) direct legal action by the Indiana Attorney General or county prosecutor, resulting in a court-ordered camp closing, a fine, and/or imprisonment.⁹⁶

A review of the State's activities during FY 1973 by the Commission staff indicated that the Health Department denied 46 permit applications on the basis of one or more violations of the code. All but nine of these camps later received their permits after "coming into compliance" with the regulations. Neither the Department of Health, the Indiana Attorney General, nor the county prosecutor sought legal prosecution of any of the violations.

During the year, revocation hearings were initiated against 12 camps. One of the hearings was "informal," two were dropped, and the remaining nine were carried out and permits were revoked in each instance. However, in each of the cases, the revocation hearings were held in November, after the migrants had left the State, and the camps were closed. (vol. 3, pp. 63, 77, and 82) Permits were revoked only through the following June, before the arrival of the next year's migrant season.⁹⁷

According to Mr. Patterson, six direct court actions were taken during the year. (vol. 3, p. 64) Four of the actions asked the court to enjoin the camp owner from operating without a license. In each case the State filed legal action months after the end of the migrant season and the camps had already closed down. No fines were levied for violations, no prison terms imposed, and no nonvoluntary camp closing enforced. Two of these camps were subsequently granted permits for operation during the 1974 migrant season, one camp has its permit currently pending for this season, and the fourth camp burned to the ground.

96. Chapter 122, Acts of 1965, Indiana General Assembly, §§ 4, 5, and 9.

97. Camp Inspection Review.

The two additional court proceedings were filed in conjunction with the Lake County Board of Health, one resulting in a camp closing during the season, the other resulting in the condemnation of a building. Although a camp was closed, no fines were levied and no prison sentences were imposed.⁹⁸

Migrant labor camps also come within the jurisdiction of the Federal Occupational Safety and Health Administration, which has the responsibility to protect farmworkers from unsafe or hazardous living conditions. OSHA is equipped with extensive inspection and enforcement powers, including fines of up to \$1,000 for each violation.⁹⁹

OSHA has, however, placed the random inspection of unsafe and hazardous migrant housing conditions in the administration's lowest priority category. It has instructed its personnel to inspect migrant camps "only in response to valid employee complaints, catastrophes, and fatalities."¹⁰⁰ OSHA has responded to seven complaints on housing but does not conduct random inspections of migrant housing. (vol. 3, p. 96)

The Rural Manpower Service also has responsibility for insuring safe and healthful living conditions in those camps for which it processes work orders for placement of migrants. Although inspection of these camps is carried out by RMS staff persons, the number of work orders processed has dwindled to such an extent (seven this year) that this provision has little or no effect on the vast majority of migrants in the State.¹⁰¹

98. Camp Inspection Review.

99. 29 CFR §1910.142 and Keppler Interview.

100. Keppler Interview.

101. Dungan Interview.

WELFARE

IT DOESN'T MAKE ANY DIFFERENCE WHAT THE LAW STATES; THE LAW IS IRRELEVANT AS FAR AS THE TOWNSHIP TRUSTEES ARE CONCERNED, AND FOR THAT MATTER, THE LAW IS PRETTY DARNED IRRELEVANT TO MOST PUBLIC OFFICIALS DEALING WITH MIGRANT WORKERS.

Louis Rosenberg, executive director
Indiana Center on Law and Poverty

Migrant farmworkers in Indiana are among the lowest paid, least educated, worst housed, and most medically impoverished groups in the State. Yet, they often do not receive the benefits of the local, State, and Federal welfare programs which are specifically designed to alleviate such conditions.

The migrant does not qualify for some programs simply by definition and by the fact that migrants do not fit the mold of the traditional poor family.

Few migrants receive "aid to dependent children" benefits because the migrant family is tightly knit and the father and mother are both normally present.¹⁰² Few migrants collect unemployment insurance because the Government has defined farmworkers as ineligible for the program.¹⁰³ Few migrants become eligible for old age assis-

102. U.S., Congress, House, Subcommittee on Agricultural Labor of the Committee on Education and Labor, Seminar on Farm Labor Problems, 92d Cong., 1st sess., 1971, p. 29.

103. 26 U.S.C. §3306(c)(1) and (k).

tance because the migrant dies at the average age of 49, long before reaching the qualification age of 60 or 65.¹⁰⁴

When migrants do qualify for a welfare program, the benefits do not come easily; sometimes they do not come at all.

Cheryl Gupton, food and nutrition specialist for AMOS, told the Advisory Committee that many migrants who are eligible for the U.S. Department of Agriculture's food stamp program have been denied food stamps in Indiana. She explained that the food stamp program requires "income verification" which for migrants is difficult because either they have not worked during the past 30 days or, if they have worked, they were not given pay stubs proving what their income and deductions were.

In addition, Indiana food stamp offices base the amount of food stamp allocation upon an "income projection" for the next 30 days. Such projections for migrants, according to Ms. Gupton, are quite difficult because there are no records upon which to base the projection, weather conditions (which determine if the migrant will work at all) are extremely unpredictable, and income projections provided by the migrants' employers are biased because the employers either do not want to admit they are underpaying their employees, or they include the income of underage children in the total income figure, a practice which is in violation of Federal regulations. (vol. 2, pp. 5-7)

One migrant farmworker, Juanita Lujan, stated in a sworn affidavit that her husband and nine children were refused food stamps in Tipton County because authorities had determined through "income projection" that the family would earn over \$800 later that month. Heavy rains during the month restricted the amount of work available and the family earned only \$7. The family had to borrow over \$200 to provide food for the children.¹⁰⁵

Thus, while migrants may be eligible for food stamps, they can be technically disqualified because of the unique nature of their work, the sporadic nature of their wages, and the inability of food stamp officials to accurately assess their income. Under Advisory Committee questioning, Edward Rucker, supervisor of the food stamp program in Indiana, conceded that migrant income projection was "most difficult" and acknowledged that the State's current procedure was to take a "shot in the dark" and hope for the best. (vol. 2, p. 82)

104. AMOS Health Project, p. 2.

105. Migrant Legal Action Program Monthly Report, September 1974, p. 3.

Migrants have also been technically disqualified from receiving food stamps in Indiana based on "residency requirements," a practice which is illegal under Federal Regulations 7 C.F.R. §271.1(e) and U.S. Department of Agriculture directive F.N.S. 1732-1 (7).

"Even to this date," reported Cheryl Gupton, "residency requirements which have been void for a long time now are being imposed on migrant workers. Either individuals and households are not rendered any assistance," she continued, or assistance is rendered only "after a long series of meetings, discussions, and general education of food stamp officials to their own regulations." (vol. 2, p. 7)

Migrants have not only been "technically disqualified" from receiving stamps in Indiana but have been disqualified because of misleading and inaccurate interpretations of food stamp regulations by State and local officials.

Mrs. Eusedio Rodriguez reported to the Indiana Advisory Committee that she and her family were denied stamps in St. Joseph County because officials claimed the family owned property in another State. The property, as it turned out, was the Rodriguez's home in Texas. (vol. 2, p. 66)

Edward Rucker testified before the Advisory Committee that he interpreted migrant home ownership in another State as grounds for disqualification under Federal regulations. (vol. 2, pp. 95-96, 127-128) Al Nichols, district manager of the Food and Nutrition Service of the U.S. Department of Agriculture, which audits the State's food stamp activities, told the Committee, however, that the regulations said no such thing and that home ownership by a migrant was entirely permissible under the law.

"The possession of a house in Texas, in the case of a migrant... does not prohibit... participation in the food stamp program in Indiana," Mr. Nichols said. "I don't think anybody [could say] that because [a migrant] happens to have a house in another State that he is ineligible." (vol. 2, pp. 122-123)

Indiana food stamp officials have also failed to correctly interpret and enforce regulations preventing the inclusion of a child's income in the total family income upon which food stamp eligibility is based. Federal Title VII regulations state that the income received by children under 18, "shall not be considered income to the household."¹⁰⁶ (Emphasis added.)

106. 7 CFR §271.3 (c)(1)(ii)(a).

Indiana officials have instead adopted the position that they will include the child's income in the family income unless a grower or crew leader notifies the food stamp office of the exact amount of the child's earnings. "If the grower or...the crew leader can identify what the child earned," Edward Rucker told the Advisory Committee, "then that could be excluded from the income." (Emphasis added.)

As a result, migrant family incomes can become illegally exaggerated and inflated. Asked if the State's policy could inflate income figures to the point of disqualifying an eligible family from food stamps, Mr. Rucker told the Advisory Committee, "That is conceivable; yes." (vol. 2, p. 103)

Mr. Rucker further revealed to the Committee that the State's food stamp offices do not doublecheck on the family income figures supplied by growers. Instead, the State has taken a "that's just tough" attitude toward migrants who are disqualified because of inaccurate income figures. "There again," Mr. Rucker told the Advisory Committee, "that is the bind the worker is in." (vol. 2, p. 100)

Indiana migrants have also been disqualified from food stamps due to the State's inaccurate and restrictive interpretation of regulations governing "income projection." Mr. Rucker insisted that U.S. Department of Agriculture (USDA) regulations prohibited the use of average past income as a means of predicting a migrant's anticipated future income. (vol. 2, p. 98)

A spokesman for USDA, Donald Thompson, told the Advisory Committee, however, that the use of past average earnings was perfectly acceptable as a basis of income projection. "If I thought it was a reasonable estimate," said Mr. Thompson, "I would recommend they accept it." (vol. 2, p. 122)

Federal Regulation 7 C.F.R. §270.3(b) requires: "The State agency shall...be responsible for...outreach to potentially eligible households," providing them with information concerning food stamps. Mr. Rucker told the Advisory Committee, however, that he is currently doing "nothing" to comply with the outreach requirement, explaining, "Since the first of January, I have been pretty busy" with other duties. (vol. 2, p. 92)

Federal Regulation 7 C.F.R. §271.6(e) authorizes the State agency to accept vouchers and warrants from other public or private agencies as payment for food stamps for individuals unable to meet the purchase price of the stamps. The Indiana food stamp office has refused to accept the vouchers of the federally funded AMOS program, thereby depriving some migrants of their ability to purchase stamps. (vol. 2, p. 11)

To insure that eligible families who move are not deprived of stamps during the time of their move to another State or project area, Federal regulations require that the State agency "shall provide for continuing the certification for 60 days." The regulations require that the agency "shall take effective action...to inform low income households...of the availability and benefits of the program and encourage the participation of eligible households."¹⁰⁷

Indiana provides for no such "effective action" either to inform migrant households of the availability of "continued certification" or to encourage their participation. Asked if food stamp offices did anything special to inform migrants of the program, or attempt to sign them up or provide application forms, Mr. Rucker answered "no." (vol. 2, p. 94)

Federal Regulation 7 C.F.R. §271.4 (a)(4)(iii)(d) authorizes food stamp agencies to certify "households deriving their income from ...farm employment," for up to 12 months at a time. Migrants in Indiana are certified for only 1 to 3 months at a time, the shortest periods possible.

Federal Regulation 7 C.F.R. §271.4 (a)(2)(iii) authorizes food stamp offices to provide emergency certification and stamps to families reporting zero income or income so low that they would have no purchase requirement. Such certification can last up to 30 days and requires no verification of eligibility factors.

Indiana food stamp offices have failed to use the emergency certification procedure in the case of migrants. AMOS representatives reported to the Commission staff that in Jay County alone, 35 farmworker families with incomes verified by crew leaders as "zero," "none," or "not known" were denied certification by the food stamp office during 1974.¹⁰⁸

Federal Regulation 7 C.F.R. §271.4 (a)(3) requires that food stamp agencies process applications within "reasonable time standards" not to exceed 30 days. An Indiana migrant must wait for certification from 40 to 60 days in some counties, however, because of 2- to 4-week delays in scheduling appointments at which the migrant can submit an application.¹⁰⁹ Until such an appointment is held and the application

107. 7 CFR §§271.1 (k) and 271.4 (a) (6).

108. Cheryl V. Gupton, letter to Commission staff, Sept. 6, 1974, Commission files.

109. Ibid.

officially submitted, the 30-day Federal time limit does not technically go into effect.

Federal Regulation 7 C.F.R. §271.1(o) requires that in the event of a complaint by an aggrieved household and a request for a hearing, "Prompt, definitive, and final administrative action must be taken by the State agency within 60 days from the date of a request for a hearing." Indiana's food stamp agency has failed to comply with this law.

On July 10, 1974, after being denied food stamps for their "property ownership in another State" (described earlier in this chapter), the Rodriguez family filed a request with the State food stamp office for a "fair hearing" to appeal that decision. Sixty days later, Sept. 9, 1974, the State had not only failed to take a "prompt, definitive, and final administrative action" but had failed even to hold a hearing on the matter.

On Friday, Sept. 20, 1974, the required hearing was convened at which time a decision was reached to allow the Rodriguezes to purchase food stamps.¹¹⁰ The failure of the food stamp agency to correctly interpret the law and the failure of the State agency to act according to the law resulted in the denial of food stamps to an eligible family for 72 days.

In addition to the Federal food stamp program, migrants in Indiana may qualify for the State's general assistance welfare program which provides funds for medical attention and emergency medical needs, rent, utility payments, emergency food and clothing, and school fees. The general assistance program is operated under the authority of the local township trustees and is funded by each local township. Indiana is the last State in the Union to continue operating its general assistance program on the local township basis. (vol. 2, p. 82)

"The [Indiana] Poor Relief Program is distinguished by the fact that there are no statewide standards," said Lou Rosenberg, executive director of the Indiana Center on Law and Poverty. "[It] is absolutely decentralized to 1,008 township trustees, locally elected, and it is financially supported by the township.

"There is tremendous localism here," continued Mr. Rosenberg, "and people from outside the townships don't fare too well. It is very difficult to get poor relief, but it is especially difficult if you are

110. Efrem Bernal, legal representative for the Rodriguez family, telephone interview, Oct. 24, 1974.

a migrant worker, because you do not have the power to vote in or out that township trustee. You are unfamiliar to that township trustee; you are unfamiliar to that community." (vol. 2, pp. 32-34)

"We get the response from the township trustees that they have only so much money in their budget and it does not include migrant workers," said Cheryl Gupton of AMOS, whose job it is to refer needy migrants to the appropriate relief agencies. "In very few instances have we had assistance from the township trustees." (vol. 2, p. 16)

Many migrants reportedly have difficulty in simply locating the local township trustee. "In these rural areas, township trustees don't even have office hours," Mr. Rosenberg told the Advisory Committee. "As a matter of fact...in a sample of 100 township trustees that we surveyed, 75 percent of these persons weren't even listed in the phone books as township trustees." (vol. 2, p. 34)

If the migrant is able to identify and locate the township trustee, he may still have difficulty in applying for relief. "I know of one instance where the trustee was eating supper and he would not get up from the table to come and give the family the applications," Lupe Rocha, an ex-Indiana migrant, told the Advisory Committee. "The trustee told them to come back another day 'when I am not too busy.' In fact, he didn't tell them that; his daughter said that 'My father is busy; he can't see you now.'" (vol. 2, p. 55)

Migrants succeeding in contacting the trustee and making out an application for relief may still not receive aid even when eligible. Some townships in the State still reportedly disqualify migrants from poor relief based upon residency requirements which were declared unconstitutional in Indiana in 1970.

In Tipton County, for example, legal action was pursued during 1974 in behalf of migrants who had been turned down for relief by a township trustee. "We spoke with...the township trustee...but our efforts were to no avail," the attorney in the case told the Advisory Committee. "He took the position that because of a residency requirement...he could not" provide poor relief to the migrants. (vol. 2, pp. 29-30)

Other township trustees claimed that they did not provide poor relief to migrants because they "never saw them." (vol. 2, p. 38) One trustee told the Advisory Committee that he does not provide poor relief to migrants but instead "sends them to the food stamp office." Another trustee told the Committee that "the only thing we do is fill up their gas tank when they are leaving town."¹¹¹ Trustee Louis Wislocki

111. Mrs. Skip Waymire, wife of Richland township trustee, interview, August 1974, and Opal Kaiser, Pipe Creek township trustee, interview, August 1974.

testified that he had granted \$600 worth of food to six migrant families during 1974. (vol. 3, p. 15)

At present, the State asserts very little authority over township trustees who fail to grant poor relief to migrants. Although the State Board of Accounts is required to audit each trustee's budget on a yearly basis, the only action taken is to eliminate any expenditures which are illegal. The board takes no action to eliminate "illegal nonexpenditures" or to insure that trustees are granting relief to eligible recipients in a nondiscriminatory manner. (vol. 2, pp. 40-41)

Commenting on the welfare system in Indiana, one migrant told the Advisory Committee, "The [welfare] agencies often look at migrant farmworkers as outsiders, outsiders who come to take something away from their people. They do not see the farmworker as a human being, a citizen, a person with pride and dignity. To them he is a beggar. The farmworker's contribution to the agricultural economy is overlooked. The farmworker, the rented slave, has no place on the local welfare rolls." (vol. 2, p. 48)

CONCLUSIONS AND RECOMMENDATIONS

EMPLOYMENT

Conclusions

1) Federal legislation, including the National Labor Relations Act of 1935, the Fair Labor Standards Act, and the Federal Unemployment Tax Act, results in unequal treatment of migrant and other agricultural workers by specifically excluding these workers from the benefits of the law while including other classes of American workers.

2) Indiana State legislation, including the Workmen's Compensation Act, the Workmen's Occupational Disease Act, the Minimum Wage Law, the Maximum Hours Law, and portions of the Child Labor Law, results in unequal treatment of migrant and other agricultural workers by specifically excluding this class of workers from coverage while including other classes of Indiana workers.

3) The Indiana Rural Manpower Service, funded by the U.S. Department of Labor, has been cited for sex, age, and racial discrimination by the Department of Labor and has failed to follow the directives of the Secretary of Labor to eliminate such practices. The Indiana Rural Manpower Service and the Secretary of Labor have both failed to comply with the court order in NAACP v. Peter J. Brennan to eliminate such practices.

The Indiana Rural Manpower Service has failed to comply with the 1972 directives of the Secretary of Labor requiring expanded and complete employment services to migrant farmworkers. Instead, the Indiana Rural Manpower Service has reduced its program and discriminates against migrant farmworkers by not providing them with the full and complete job training, counseling, development, and placement services.

4) The Employment Standards Division of the U.S. Department of Labor has contributed to the continued violation of migrant rights through its failure to diligently monitor and seek prosecution against violators of the Fair Labor Standards Act and the Farm Labor Contractor Registration Act. Although the division documented violations of the law in 7 out of every 10 cases investigated during 1973, not one of the 203 separate illegal activities was prosecuted by the Department of Labor.

5) The U.S. Department of Labor's Occupational Safety and Health Administration has legal authority to eliminate the unhealthy and hazardous living and working conditions of migrants through the strict enforcement of their regulations. The administration has instead placed random inspection of migrant camps in its lowest priority, and has disallowed submission of "valid complaints" by anyone other than a migrant or his/her authorized legal representative. As a result, camp conditions and working conditions remain both unsafe and unhealthy.

6) The National Migrant Farmworker Program, operated by the Midwest Council of La Raza in Indiana, is a promising program which has provided genuinely beneficial job training and placement services to migrant workers.

7) Migrant referral, support service, and outreach programs operated by Associated Migrant Opportunity Services and funded through the joint efforts of the U.S. Departments of Labor and Health, Education, and Welfare, provide important and necessary services to migrants in the State of Indiana.

Recommendations

1) The Indiana Advisory Committee to the U.S. Commission on Civil Rights recommends that the U.S. Congress amend the Fair Labor Standards Act, the National Labor Relations Act, and the Federal Unemployment Tax Act to include migratory farmworkers; that Indiana Senators Vance Hartke and Birch Bayh jointly draft the amendments for the next legislative session; and, that they seek the support of all Senators representing either migrant "home States" or "receiver States" as primary sponsors of the amendments.

2) The Advisory Committee recommends that the Indiana State Legislature amend the State's Workmen's Compensation Act, the Workmen's Occupational Disease Act, the Minimum Wage Law, the Maximum Hours Law, appropriate portions of the Child Labor Law, and the Unemployment Compensation Law to include migratory farmworkers.

3) The Advisory Committee recommends that the U.S. Secretary of Labor terminate present or future Department of Labor funding of the Indiana Rural Manpower Service, either through the Manpower Administration or the Comprehensive Employment and Training Act of 1973, and that U.S. District Court Judge Charles R. Richey, who retains jurisdiction over the Secretary of Labor and the Rural Manpower Service program, "to insure that plaintiffs (migrants) receive the benefits and protections to which they are entitled," review the findings of this Advisory Committee and initiate appropriate action based thereupon regarding compliance by the Department of Labor and the Rural Manpower Service with his judicial order of 1973. (NAACP v. Peter J. Brennan 360 F. Sup. 1006, District of Columbia, 1973)

4) The Advisory Committee recommends that the Indiana Employment Standards Division of the Department of Labor increase its farm labor inspections to cover every camp in Indiana by the migrant season of 1976. The Committee further recommends that the division and the Department of Labor enforce all provisions of the Fair Labor Standards Act and the Farm Labor Contractor Registration Act and insure compliance with the law through court action, fines, and other appropriate action when necessary.

5) The Advisory Committee recommends that the Deputy Assistant Secretary/Administrator and the Assistant Secretary of Labor for the Occupational Safety and Health Administration reconsider the priority given to random inspections of migrant working and living conditions and that they amend the administration's current interpretation of "valid complaint" to include complaints filed by individuals with direct knowledge of unsafe or hazardous conditions.

EDUCATION

Conclusions

1) The Indiana Legislature has inhibited the ability of the migrant child to obtain an equal education in Indiana by: a) passing legislation exempting migrant children from compulsory education, b) failing to foster and fund sufficient and adequate day care centers to allow older migrant children to attend school rather than babysit, and c) failing to fund a single program designed to provide educational services to meet the unique needs of migrant children.

2) The Indiana Department of Public Instruction has failed to comply with its responsibility of providing equal education to all students. The department has continually funded schools serving Spanish speaking migrant children without proper assurance and verification from those schools that the migrant children were receiving an "equal education" as required and defined by the Department of Health, Education, and Welfare.

3) The Division of Migrant, Bilingual and Cultural Education of the Indiana Department of Public Instruction has failed to comply with the requirements of the Title I migrant program which the division administers. The division has: a) allowed school corporations to "supplant" their regular school funds with Federal Title I funds, b) allowed Indiana school corporations to receive Title I funds even though the corporations provided no "specially designed programs" for migrant students as required by law, and c) failed to require compliance with the State's objective of parental participation in the migrant program.

Recommendations

1) The Advisory Committee recommends that the State legislature adopt an amendment to include migrant children within the scope of the compulsory education law. The Committee recommends that the legislature designate an appropriate subcommittee to: a) ascertain the present need for day care facilities for migrant families, b) define the unique educational needs of migrant children, and c) report on the feasibility of appropriate programs to meet those needs. The subcommittee shall utilize the resources presently available within the Division of Migrant, Bilingual and Cultural Education.

2) The Advisory Committee recommends that the State Department of Public Instruction require each school corporation serving Spanish speaking migrant children to design and submit to the State a description of the educational program it intends to provide to meet the "special needs" of migrant children, and to comply with the "equal education" requirements of the law. Schools failing to meet those special needs or failing to provide an equal education should be declared unqualified to receive State funding.

3) The Advisory Committee recommends that the Audit Division of the U.S. Department of Health, Education, and Welfare conduct an audit of the Indiana Title I migrant programs, paying special attention to evidence of supplanting of Federal funds, funding of school corporations which have no "specially designed programs," and failure of the programs to provide for parental participation.

HEALTH

Conclusions

1) The Indiana Comprehensive Health Planning Agency has ignored the health care needs of migrant farmworkers and has excluded migrants from the State's health planning activities.

2) The Indiana Board of Health has failed either to evaluate the health care needs of migrants in the State or to implement health care programs to provide for those needs. The department currently operates only two programs of direct benefit to the migrant, but neither program reaches a substantial proportion of the migrant population.

3) Health care provided on a local level by county health departments is sporadic, with little provision for accountability. Approximately one-third of the State's migrant-populated counties have migrant nurses provided by the State, one-third provide their own migrant nurse, and one-third provide no health care program at all. The State provides no overall evaluation or accountability procedures to insure the effectiveness of the county programs.

4) The continued high incidence of disease and illness among migrants indicates that the State as well as local health agencies have been ineffective in providing adequate health care to migrants.

Recommendations

1) The Advisory Committee recommends that the Indiana Comprehensive Health Planning Agency invite migrant candidates to serve on the CHP advisory Committee and adopt a migrant health task force, including representatives of migrant farmworkers, public and private agencies currently involved in migrant health, as well as medical and health representatives, to begin an immediate evaluation of the health care needs of migrants in Indiana and to recommend a program which will meet those needs.

2) The Advisory Committee recommends that the Indiana Department of Health utilize the findings of the health task force in designing and implementing a uniform statewide program aimed at serving the health needs of the entire Indiana migrant population.

3) The Advisory Committee recommends that until such a full plan can be implemented, the State Board of Health provide a migrant health nurse in each county which presently does not support its own migrant health nurse.

HOUSING

Conclusions

1) The State Board of Health, Division of Sanitation, has allowed unsafe, unclean, uncomfortable, and overcrowded housing conditions to exist in migrant labor camps by:

- a) failure to monitor or require compliance with restrictions on overcrowding;
- b) allowing camp owners to consistently violate laws which require them to apply for camp permits 60 days in advance of opening;
- c) failure to inspect the interior of migrant camp housing during occupancy; and
- d) ineffective use of its enforcement tools such as permit revocation and direct court action.

2) The Occupational Safety and Health Administration has authority to eliminate many of the unsafe and hazardous living conditions in migrant housing. The administration has instead instructed its personnel to inspect migrant camps "only in response to valid employee complaints, catastrophes, and fatalities." Unsafe and hazardous conditions are thus allowed to continue in existence.

3) The Rural Manpower Service has "certification" powers, which include housing regulations, for those camps which use the service for recruitment of workers. However, the number of camp owners using the service has dropped so low that their housing requirements affect virtually none of the camps.

Recommendations

1) The Advisory Committee recommends that the Indiana State Board of Health, Division of Sanitation:

- a) monitor and enforce overcrowding regulations through a program including mandatory head counts by inspectors, the inclusion of those head counts in the regular inspection report, and the prosecution of any camp owner found in violation of overcrowding restrictions;

- b) immediately comply with State regulations and discontinue the practice of granting camp permits to applicants who do not apply "60 days prior to opening" as required by law;
- c) revise its policy regarding interior inspections of migrant housing in order to provide for discrete but effective inspection of conditions inside migrant housing; and
- d) provide for timely and effective enforcement procedures through immediate revocation hearings (instead of hearings after the crop season as is now the practice), and immediate court actions where warranted.

2) The Advisory Committee recommends that the Assistant Secretary of Labor for the Occupational Safety and Health Administration, John H. Stender, revise current OSHA migrant camp inspection policy to include random inspections, and that "valid complaints" be redefined to include complaints filed by individuals with direct knowledge of camp conditions.

WELFARE

Conclusions

1) Eligible migrant farmworkers have been denied Federal food stamps in Indiana because of:

- a) technical ineligibility due to the State's inability to accurately project migrant income and due to the continued use, in some counties, of residency requirements;
- b) misinterpretation of the law by the Indiana supervisor of food stamps and by local county officials, including incorrect interpretations of the provision for property ownership, inclusion of income of underage children in family earnings, and undue limitations placed upon methods of income projection; and
- c) the failure of the Indiana program to function properly as required by law, including the failure of the State supervisor to operate an outreach

program, honor payment vouchers from other public and private agencies, to provide "continuing certification" for families who are moving, make use of the emergency zero purchase procedure, to act on stamp applications within reasonable time standards, and to hold complaint hearings within the time limits imposed by law.

2) Migrant farmworkers in Indiana have been denied poor relief from township trustees because of:

- a) limited access to the trustee;
- b) illegal residency requirements imposed by some trustees; and
- c) outright denial of relief by trustees or "referral" to some other agency.

Recommendations

1) The Advisory Committee recommends that the Food and Nutrition Service of the U.S. Department of Agriculture monitor and review the practices of the Indiana food stamp agency, and as provided by law place the State agency on notice of its "failure to comply" with Federal regulations.¹¹²

2) The Advisory Committee recommends that the Governor and the chief presiding officer of the State Board of Accounts request that the State Attorney General prepare a memorandum of law concerning the unconstitutional use of residency requirements in determining welfare eligibility and that the memorandum be distributed to each trustee in the State. The Committee also recommends that the Attorney General prepare a memorandum of law defining the State Board of Accounts' authority over "illegal expenditures" and "illegal nonexpenditures" by township trustees.

3) The Advisory Committee recommends that the State legislature consider the abolition of the township trustee form of poor relief and the development of a more effective delivery system.

¹¹². Federal regulations [7 CFR §271.1 (t)] require that State agencies placed on notice of "failure to comply" must correct such failures within a reasonable period of time, as determined by the Food and Nutrition Service.

General Recommendations

1) The Advisory Committee recommends that the Governor constitute a task force on migrant farm labor with responsibility to:

- a) design a model plan of migrant education for consideration and possible use by school corporations which presently have a migrant population but no special migrant program;
- b) act as a consultant to the legislature in its study of migrant education, providing information on the unique needs of migrant children and programs necessary to meet those needs;
- c) design a model migrant health outreach system for submission to the Comprehensive Health Planning Agency and the State Board of Health; and
- d) monitor the enforcement efforts of the Department of Health, Division of Sanitation in camp inspections to insure compliance with current regulations, and make recommendations for improvements in either the regulations or enforcement procedures.

2) The Advisory Committee recommends that the Governor of Indiana review the policies and practices of the Department of Education, its Division of Migrant, Bilingual and Cultural Education, the Board of Health, Division of Sanitation, the Welfare Department's food stamp program, and the Board of Accounts' audit of township trustees, regarding compliance with the State and Federal regulations described in this report. The Governor should notify the agency of his findings, and in the event of noncompliance, he should require the agency to take affirmative action to reach compliance.

3) The Advisory Committee recommends that the Inter-Regional Council Committee on Migrants, representing public and private agencies involved in migrant affairs, and its Midwest component, the Region V Federal Regional Council Migrant Task Force, evaluate the feasibility of interstate/interregional transfer of food stamp certification based on a 12-month certification period. Such a plan would enable migrants to move from State to State and region to region without interrupting their ability to obtain food stamps, and without unnecessary delay caused by lengthy recertification procedures.

APPENDIX

FEDERAL AND INDIANA LAWS AFFECTING MIGRANT FARMWORKERS

Laws Governing Labor

Wages

Although Federal legislation regulating minimum wages has been on the books since 1938, farmworkers were not included in the wage provisions of the Fair Labor Standards Act (FLSA) until 1966. A minimum wage of \$1.60 per hour is now provided for agricultural employees [29 U.S.C. §206(a)(5)]. That figure will rise to \$2.30 in 1978. Not all farmworkers are covered under FLSA. Agricultural workers are covered only if their employer used at least 500 man-days of agricultural labor during any quarter of the preceding year [29 U.S.C. §213(a)(6)]. Regulations governing the wage sections of the FLSA pertaining to migrants are contained in 29 C.F.R. Part 780.

The Sugar Act of 1948 [48 U.S.C. §1131(c)(1), 7 C.F.R. §860] authorizes the payment of subsidies to producers and processors of sugar cane and sugar beets, conditioned upon the payment of "fair and reasonable wages" to farmworkers and on the employer's avoidance of the use of child labor. The Secretary of Agriculture is required annually to set wages and hours for the following season and is also required to establish procedures to ensure that producers actually pay the established minimum wage. Very few sugar beets are grown in Indiana; consequently, protections under this legislation, even though deficient in many respects, do not have major impact on the Indiana migrant.

The Indiana minimum wage law (Burn's Ind. Ann. Stat. §40-132 et seq.) specifically excludes farmworkers from its coverage. This is so even though the public policy section of the Act (§40-133) would seem to be aimed specifically at migrants who are employed at "insufficient rates of pay threat[ening] the health and well-being of the people of the State of Indiana and injur[ing] the economy of the State."

Hours

The maximum hour provisions of the Fair Labor Standards Act do not apply to farmworkers employed by employers who did not use more than 500 man-days of agricultural labor in any quarter of the preceding year [29 U.S.C. §213 (a)(6)]. Regulations pertaining to the overtime provisions of the FLSA for farmworkers are found at 29 C.F.R., Part 780.

Indiana statutes exempt agricultural labor from provisions relating to maximum hours. (Burns Ind. Ann. Stat. §40-401).

Child Labor

The Fair Labor Standards Act sets a minimum age of 16 for employment in agriculture (29 U.S.C. §212). This minimum does not apply, however, when school is not in session [29 U.S.C. §213(c)(1)]. Recent amendments to FLSA prohibit children under the age of 12 from working in the fields at any time, although these provisions are not currently being enforced because of an adverse Federal court ruling that this age limitation is a restriction of the child's rights. The Secretary of Labor is authorized to prohibit children under the age of 16 from working in particularly hazardous occupations in agriculture [29 U.S.C. §213(c)(2)]. Regulations relating to child labor under FLSA are contained in 29 C.F.R. §§1500.123, and 1500.70 to 1500.72.

The Sugar Act also restricts the use of child labor in farmwork. Generally, children between 14 and 16 (except children of the owner) may not work longer than 8 hours per day. Violations of child labor provisions will not mean a loss of allotment to the farmer, however [7 U.S.C. §1131(a)].

Indiana law not only fails to protect children working in agricultural labor, but it specifically exempts minors in farm labor from the requirement to have work certificates, to submit to physical examinations, and to have work hour limitations (Burns Ind. Ann. Stat. §28-5338 - 5340). In addition, compulsory school attendance laws are rarely, if ever, enforced with migrant children, and indeed are written so as to exclude most migrant children from their coverage. The Indiana compulsory attendance law exempts children who are in the State for no longer than 90 days (Burns Ind. Ann. Stat. §28-5306).

Working Conditions

The Occupational Safety and Health Act of 1970 (29 U.S.C. §§651 to 678) authorizes the Secretary of Labor to promulgate Federal occupational safety and health standards applicable to businesses affecting commerce. This includes farmers with one or more employees, except that the Act will not be applied to members of the farmer's family who work for him. Four of the standards issued thus far by OSHA are applicable to agriculture. They are: 1) sanitation in temporary labor camps; 2) storage and handling of anhydrous ammonia; 3) pulpwood logging; and 4) slow-moving vehicles (29 C.F.R. §1910.267). OSHA also requires employers to maintain accurate records and to make periodic reports of work-related illnesses. Farmers are also supposed to keep records of employee exposures to potentially toxic materials under OSHA regulations (29 C.F.R. §1910).

Indiana's legislation governing occupational safety, the Workmen's Occupational Disease Act, specifically exempts agricultural labor from its provisions (Burns Ind. Ann. Stat. §40-2206).

Labor Contractors

The Farm Labor Contractor Registration Act (7 U.S.C. §§2041 - 2053) seeks to improve conditions for interstate migrant farmworkers by requiring that the contractors observe certain rules in dealing with farmworkers and employers. The law generally covers a person who, for a fee, recruits, hires, furnishes or transports 10 or more migrant workers at any one time in any calendar year for interstate agricultural employment. A person who is covered must register with the U.S. Department of Labor; must fully inform workers at the time of recruitment about living and working conditions; must, if responsible for paying the workers, keep payroll records and provide earnings and withholdings statements; must post the conditions of employment; must post housing conditions, if responsible for providing housing, and must insure vehicles used to transport workers. Noncompliance with the Registration Act may result in revocation of registration and a fine of up to \$500.

No provision regulating labor contractors exists in the State of Indiana.

Collective Bargaining

The Taft-Hartley Act (29 U.S.C. §§141 to 187)--passed in 1947--guarantees the right of employees to organize and engage in collective bargaining. As defined by the act, however, the term "employee" excludes agricultural workers (29 U.S.C. §152). In addition, all appropriation bills passed by Congress to implement the Taft-Hartley Act have specified that no part of the appropriation may be used to intervene in labor disputes in agriculture (as defined by the Fair Labor Standards Act). In recent years legislative proposals have regularly been introduced to extend Federal collective bargaining rights and duties to farmworkers. The proposals on how to accomplish this have been many and varied. Some would merely amend the National Labor Relations Act to make its provisions applicable to agricultural workers (the AFL-CIO approach), while others desire a more liberal bill free from restrictions on union practices that have come with recent amendments to the present NLRA (the Cesar Chavez - United Farm Workers Organizing Committee approach).

Indiana has no laws relating to collective bargaining rights for farmworkers.

Job Training and Employment Services

The Wagner-Peyser Act authorizes the U.S. Employment Service to maintain a farm placement service through the State employment office system and to set standards for the use of this service (29 U.S.C. §49b). A Federal district court [NAACP, Western Region v. Brennan, 360 F. Supp. 1006 (1973)] has held that the operation of the State employment service had subjected minority farmworkers to racial, national origin, sex, and age discrimination and had denied these farmworkers the employment services to which they were entitled under the federally financed and supervised State Rural Manpower Service.

The State of Indiana operates through the Rural Manpower Service, a farmworker placement service. Although approximately 19,000 migrants enter Indiana each year, in 1974 the Indiana Rural Manpower Service processed only seven job orders and offered virtually no alternative placement, testing, or counseling services to agricultural workers. The State of Indiana provides no other resources for retraining migrant farmworkers or for assisting them in the settling out process.

The Federal Comprehensive Education and Training Act (CETA) (29 U.S.C. §801 et seq.) consolidates employment and job training programs formerly available to migrant farmworkers under the Manpower Development and Training Act (42 U.S.C. §2571) and the Emergency Employment Act (42 U.S.C. §§4871-4883).

Social Security

Under the Social Security Act, a tax is imposed on "wages" to fund the Old Age, Survivors, and Disability Insurance (OASDI) program (26 U.S.C. §3101). However, as defined, the term "wages" does not include non-cash payment for agricultural labor [26 U.S.C. §3121(a)(8)(A)] or cash payments of less than \$150 per year or payments for less than 20 days of work. Agricultural labor is defined by 26 U.S.C. §3121(g) and 42 U.S.C. §410(f). Also exempt from the tax are payments made to foreign agricultural employees [26 U.S.C. §3121(b)(1)] and payments for services performed under sharecropping arrangements [26 U.S.C. §3121(b)(16)]. The Social Security Act provides that these categories of persons whose wages are not taxed do not qualify for OASDI coverage [42 U.S.C. §§409(h)(1) and (2), 410(a)(16) and (19), 410(f)].

Farm crew leaders who themselves pay the workers are deemed the employers if there is no agreement to the contrary. As the employers they are liable for payment of Social Security taxes and other duties required of employers by the statutes [26 U.S.C. §3121(o), 42 U.S.C. §410(n)]. Quarters of coverage for agricultural labor under the Social Security Act are computed somewhat differently from other employees [42 U.S.C. §413(a)(2)(iv) and (v)].

Unemployment Compensation

The Federal Employment Tax Act (26 U.S.C. §3301 et seq.) requires employers to pay a tax on "wages paid with respect to employment" for the purpose of funding the unemployment compensation program. However, the term "employment" is defined to exclude agricultural labor [26 U.S.C. §3306(c)(1) and (k)]. Thus, agricultural workers are not eligible to receive unemployment compensation. Attempts have been made to broaden coverage to include migrants. None, however, have succeeded thus far.

Workmen's Compensation

The workmen's compensation program in this country is basically a State system. Farm occupations have been excluded from most State workmen compensation laws. Originally, the rationale used by farm employers was that farmwork was nonmechanized and not hazardous. Although this is not true today, Indiana continues to be among the States that exempts agricultural labor from its Workmen's Compensation Act (Ind. Ann. Stat. §52-1532).

Education

Under Title I of the Elementary and Secondary Education Act, State educational agencies may apply for grants from the Office of Education for projects to meet the special education needs of children of migratory agricultural workers [20 U.S.C. §241e(c)]. Under recent amendments to this program, State educational agencies are entitled to receive Title I funds for migrant children [Pub. L. No. 93-380, §122(a)(1)] based on the average daily attendance to migrant children in their schools. An important provision of the 1974 amendments to Title I allows the Commissioner of Education to make special arrangements with other public or private agencies to provide educational services to migrant children if the State is unable or unwilling to conduct such programs or if it would be more efficient or effective to do so [Pub. L. No. 93-380, §122(a)(2)].

The State of Indiana provides no special State educational funds to serve migrant children.

Health

The Public Health Service Act of 1962 authorizes the Department of Health, Education, and Welfare to make grants and to provide other assistance to health agencies to provide health services for migratory farmworkers (42 U.S.C. §242h). Regulations for these programs are found in 42 C.F.R. Part 56. Under this program grants may be made to any public or nonprofit institution, agency, or organization. The types of services may include family health service clinics, hospital care, and the training of persons to provide migrant health services. This program provides the only Federal health money specifically for domestic agricultural migrants. However, migrant farmworkers also benefit somewhat from other Federal health funds coming to the State of Indiana, through, for example, maternal and child care programs which offer family planning services and child care health services. A portion of the Federal maternal and child care monies is also apparently used to fund the migrant dental program and to assist some of the counties in Indiana in providing migrant health nurses.

The State of Indiana, through the township trustee, is required to provide for the costs of medical care for all poor persons within the townships (Ind. Code §12-2-1-6). The law as written does not impose a residency requirement. The county welfare department is also required to provide medical care for nonresident indigents (Ind. Code §12-5-2-1). The welfare department must be notified within 72 hours by the physician or hospital furnishing the medical services. The cost of providing the services is to be borne by the county in which the indigent person is injured or becomes ill.

Welfare

The food stamp legislation (7 U.S.C. §§2011-2025) does not specifically mention migrants, although it is apparent that many migrants qualify for this assistance. Certain food stamp regulations have been drafted to assist State agencies in certifying migrants and in providing food stamps for continuing periods, despite the mobile aspects of the migrants' life [7 C.F.R. §271.1(k), 7 C.F.R. 271.4(a)(4) (iii)(d)]. There is no residency requirement for food stamps.

Migrants would also be eligible for the Federal categorical welfare programs under the Social Security Act (42 U.S.C. §201 et seq.) but most cannot meet the requirements of a single parent family, or of disability, age, or blindness. The general assistance programs of the States are the only feasible welfare programs for which most migrants can qualify.

In Indiana the system of general assistance is administered by the local township trustees (Burns Ind. Stat. Ann. §52-139 et seq.). The trustees are elected officials and have great discretion in administering the welfare system. Trustees have authority to act in a number of areas, the primary ones being medical services and the provision of rent and utility payments. Although many States formerly used the township trustee system, Indiana is the last State to function under this system.

Labor Camps

Labor camps in Indiana are subject to the Indiana Agricultural Labor Camp Act of 1965 (Ind. Code 1971 §S13-19-1 et seq.), and the rules promulgated pursuant to the Act [Burns Stat. Ann. Ad. Rul. & Reg. (15-2501) - 1 et seq. (1972 Supp.)].

Basically, the law requires the State Board of Health to enact and enforce rules of minimum health and safety standards. Enforcement of these rules is accomplished by a system of inspecting camps and issuing licensing permits, but the act also provides for criminal and civil sanctions for violations.

The State Board of Health has adopted the following procedures in enforcing the law: Following the receipt of an application for a permit, the board inspects the camps and, if it is satisfied that a camp meets the minimum requirements, issues a permit for its operation. If a camp is found to be operating without a permit, the board may request that the local prosecutor bring criminal action against the

operator or it may only notify the operator of the legal requirements and set forth a date wherein legal compliance must be attained. If compliance is not obtained, the board may institute proceedings to enjoin the operation.

Camps which have received a permit must be maintained according to regulations. If a camp is found to be in violation of the act, the camp permit can be revoked after proper notice and opportunity for a fair hearing has been given to the operator.

If a camp is closed by the State Board of Health, the board must notify the county agricultural agent, the county welfare board, and the representative of the nearest office of public employment service in order that workers and their families housed in the closed camp may be adequately placed.